

**BEFORE THE MONTGOMERY COUNTY  
BOARD OF APPEALS**

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
Stella B. Werner Council Office Building  
Rockville, Maryland 20850  
(240) 777-6660**

**IN THE MATTER OF: \***  
**MONTGOMERY GENERAL HOSPITAL, INC. \***

Petitioner \*

Peter Monge \*

William Landfair \*

Michael Abrams \*

Michael Goodman \*

Jason Beshore \*

Craig Hedberg \*

For the Petitioner \*

Jody S. Kline, Esquire \*

Attorney for the Petitioner \*

Board of Appeals Case Nos. CBA-2521-J  
(OZAH Case No. 08-29)

\* \* \* \* \*

Martin Klauber, Esquire, People's Counsel \*

In Support of the Petition \*

\* \* \* \* \*

Before: Martin L. Grossman, Hearing Examiner

**HEARING EXAMINER'S REPORT AND RECOMMENDATION**

## TABLE OF CONTENTS

	<b>PAGE No.</b>
I. STATEMENT OF THE CASE .....	3
A. Procedural Background.....	3
B. Scope of the Hearing .....	5
II. FACTUAL BACKGROUND .....	6
A. Subject Property and Current Use.....	6
B. The Neighborhood.....	9
C. Proposed Modification .....	12
1. <i>The Proposed POBs and the Consolidated Special Exception Site:</i> .....	12
2. <i>Staff and Hours of Operation:</i> .....	25
3. <i>Transportation, Access, Parking and the Parking Waiver Request:</i> .....	26
4. <i>The New Transit Center:</i> .....	40
5. <i>Landscaping, Lighting and Signage:</i> .....	41
6. <i>Environment and the Forest Conservation Plan:</i> .....	54
7. <i>The Long-Range Master Plan Issue:</i> .....	57
D. Concerns of the Neighbors (Pedestrian Access and Landscape Screening) .....	58
1. <i>Neighborhood Concerns</i> .....	58
2. <i>Community Liaison Council</i> .....	58
III. THE HEARING.....	59
A. Petitioner's Case .....	59
B. People's Counsel .....	79
IV. FINDINGS AND CONCLUSIONS .....	80
A. Standard for Evaluation .....	82
B. General Standards .....	84
C. Specific Standards: Hospitals.....	90
D. General Development Standards §59-G-1.23 .....	93
V. RECOMMENDATION .....	98

## **I. STATEMENT OF THE CASE**

### **A. Procedural Background**

On March 10, 2008, Petitioner Montgomery General Hospital, Inc., filed a petition seeking to modify an existing Special Exception (CBA-2521-I, and earlier grants) to permit the addition of two, four-story Physician Office Buildings to Petitioner's West Campus, and associated parking. In addition, Petitioner seeks a parking waiver to determine that the 499 spaces it will provide on the West campus are sufficient, and it plans to add a Transit Center to its East Campus. Montgomery General Hospital (MGH) is located at 18101 Prince Phillip Drive, Olney, Maryland, in the RE-2, R-200 and R-60 Zones. Its property consists of 46.46 acres of land identified on the plat records as Parcels N-122, N-900, N-933 (Part of Parcel-A), N-961, P-120, P-207, P-209; and Lots 3 through 7, Block B of "Timberland Estates." Montgomery General operates under numerous special exceptions and modifications,<sup>1</sup> the most recent being CBA-2521-I. It is now a part of MedStar, a not-for-profit, regional health care system, but MGH still exists as a corporation. Tr. 13-16.

Initially, the hearing in this case was scheduled for September 26, 2008. It was postponed a couple of times at Petitioner's request to allow amendments to the plans (Exhibits 14, 17, 20 and 21). On June 9, 2009, the Office of Zoning and Administrative Hearings issued a notice postponing the public hearing to July 17, 2009, for administrative reasons (Exhibit 30). Petitioner moved to amend the petition on January 20, April 23, May 14 and May 20, 2009 (Exhibits 18, 22, 24 and 26). Those motions were duly noticed (Exhibits 19, 23, 27 and 29), and approved without opposition.

Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) issued its report on May 22, 2009 (Exhibit 28), recommending approval of the parking waiver request

---

<sup>1</sup> CBA-2521; CBA-2521-A through I; S-640; S-343; S-327; CBA-2979; BAS-511; BAS-1920; BAS-1921. According to Technical Staff, major hospital expansions (building and acreage) took place in the mid 90s and the early part of 2000.

and the special exception petition, the latter with conditions.<sup>2</sup> On June 4, 2009, the Montgomery County Planning Board voted unanimously to recommend approval of the parking waiver request and the special exception, with essentially the same conditions recommended by Technical Staff, as stated in the Planning Board's June 5, 2009 letter to the Board of Appeals (Exhibit 31).

A public hearing was convened as scheduled on July 17, 2009, and testimony was presented by Petitioner in support of the petition. Martin Klauber, People's Counsel for Montgomery County, participated in the hearing and expressed his conditional support for the petition. There was no opposition at the hearing; nor were there any opposition letters from the community. The record was held open until July 24, 2009, for additional filings by Petitioner and until August 10, 2009, for responses thereto from Technical Staff and other interested parties.

At the request of Petitioner, the record was held open again until August 17 and then until August 26, 2009. Exhibit 64. On August 24, 2009, Petitioner filed a request that the record be held open till September 16, 2009, to give Petitioner time to complete negotiations with Technical Staff about revisions to the landscaping plan. Exhibit 68. Technical Staff informed the Hearing Examiner that there were also issues regarding the size of some of the parking spaces, and that revisions to both the site plan and the landscape plan might be required. The extension was granted and the record was held open until September 16, 2009 (Exhibit 69); however, Petitioner was unable to work out its differences with Technical Staff by that date. On September 14, 2009, Petitioner submitted a number of revised plans (Exhibits 71(a) –(f)), and sent copies to Technical Staff for their review.

On September 29, 2009, the Planning Board adopted a resolution approving Petitioner's Preliminary Forest Conservation Plan (Exhibit 78). On October 13, 2009, Petitioner submitted its final version of the overall landscape plan (Exhibit 81(a)), and Technical Staff indicated its approval on the next day (Exhibit 83). On October 15, 2009, Petitioner submitted Amended Statement of

---

<sup>2</sup> The Technical Staff report is frequently quoted and paraphrased herein.

Operations (Exhibit 85(a)). In sum, following the hearing, the revised filings listed below were submitted to address issues raised either at the hearing or by Technical Staff:

- (a) Revised Special Exception Plan
- (b) Revised Overall-Planting (Landscape) Plan
- (c) Revised Hardscape Plan
- (d) Revised Forest Conservation Plan
- (e) Revised Conservation Plan (sheet detail)
- (f) Revised Site Cross Section
- (g) Revised Photometric Site Lighting Plan L-1
- (h) Revised Photometric Site Lighting Plan with fixture details L-1A
- (i) Revised Site Light Cut Sheet L-2
- (j) Revised Sign Plan for the Monument Sign
- (k) Amended Statement of Operations (regarding lighting in the parking lot and hours of operation).

Though most of the post-hearing revisions in the petition were minor, on October 16, 2009, the Hearing Examiner issued an Order (Exhibit 86) reopening the record to receive these revised documents, as well as the Orders, correspondence and e-mail discussing them (Exhibits 51 through 86 and their subparts). The Order also gave interested parties ten days to submit comments, if any, pursuant to Zoning Ordinance §59-A-4.24. There were no comments received, and the record closed on October 29, 2009.

## **B. Scope of the Hearing**

Zoning Code §59-G-1.3(c)(4) provides that the public hearing on modification applications must be limited to discussion of those aspects of the special exception use that are directly related to the proposed modifications, and if the total floor area will be expanded by more than 25% or 7,500 square feet, the Board may review “the underlying special exception,” but only to a limited extent, as specified in Zoning Ordinance §59-G-1.3(c)(4)(A). That section provides:

(A) *After the close of the record of the proceedings, the Board must make a determination on the issues presented. The Board may reaffirm, amend, add to, delete or modify the existing terms and/or conditions of the special exception. The Board may require the underlying special exception to be brought into compliance with the general landscape, streetscape,*

pedestrian circulation, noise, and screening requirements of 59-G-1.26, if (1) the proposed modification expands the total floor area of all structures or buildings by more than 25%, or 7,500 square feet, whichever is less, **and** (2) the expansion, when considered in combination with the underlying special exception, changes the nature or character of the special exception to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected. [Emphasis added.]

In the subject case, the planned addition of two, four-story Physician Office Buildings will add a total of 120,000 square feet of floor area, according to Petitioner's Amended Statement of Operations (Exhibit 85(a)). Therefore, the Board may require that the underlying special exception be brought into compliance with the general landscape, streetscape, pedestrian circulation, noise, and screening requirements of 59-G-1.26, if it finds that the expansion, when considered in combination with the underlying special exception, changes the nature or character of the special exception to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected.

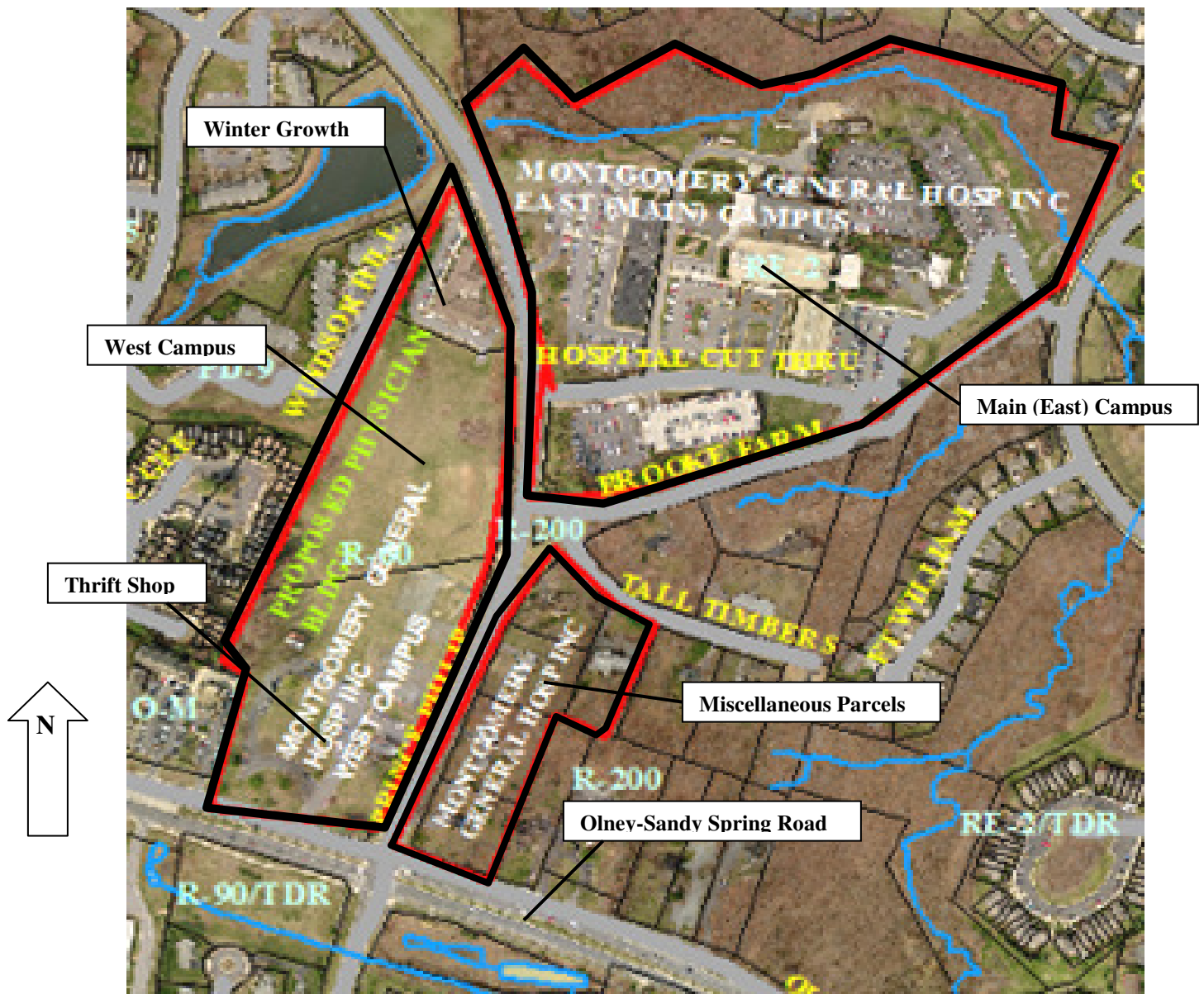
As discussed below, the Hearing Examiner finds that the proposed modifications would not change the nature or character of the special exception, nor are the proposed changes so extensive as to create substantial adverse effects on the surrounding neighborhood.

## **II. FACTUAL BACKGROUND**

### **A. Subject Property and Current Use**

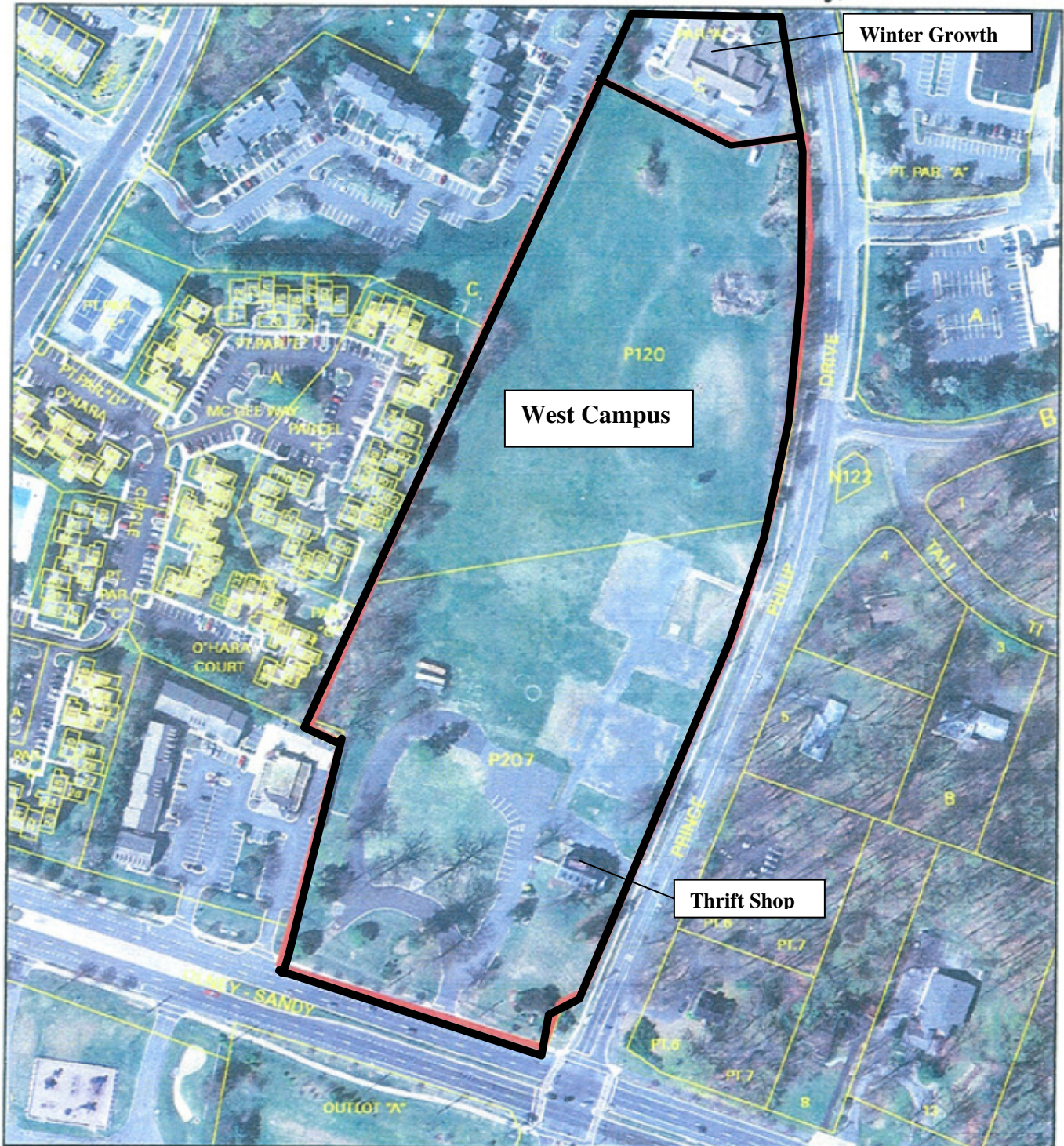
Montgomery General Hospital, Inc. operates pursuant to Special Exception CBA-2521, with modifications A through I. It is located in the northwest quadrant of the intersection of Olney-Sandy Spring Road and Prince Philip Drive, and at the intersection of Prince Philip Drive, Tall Timbers Road, and Brook Farm Drive. The Main (or East) Campus is improved with the main hospital building, several other professional buildings, two physicians office buildings (POB #1 and POB #2), a three-level parking garage and surface parking lots. The overall subject site, including the East Campus, the West Campus, and Miscellaneous Parcels, consists of 46.46 acres of land, zoned RE-2,

R-200 and R-60; however, the proposed new physicians office buildings (POB #3 and POB #4) and parking are limited to the 14.61 acre West Campus, all of which is in the R-60 zone. It is separated from the Hospital's main area (the East Campus) by Prince Philip Drive. The West Campus is already improved with Winter Growth, a day care facility for senior adults that is located on the north end of the site (S-1920 and 1921) and a small thrift shop that is located on the southern end of the site (S-511). These facilities will remain in place. The new Transit Center, which Petitioner has offered to mitigate the increase in trips caused by this modification, will occupy a small area on the western edge of the East Campus. The center area of the West Campus is currently unimproved, as can be observed on aerial photo maps of the campus reproduced below and on the next page.





# MONTGOMERY GENERAL HOSPITAL (CBA-2521-J)



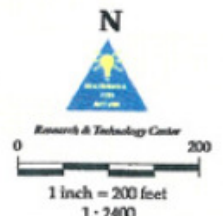
Map compiled on May 22, 2006 at 3:17 PM | Site located on base sheet no - 224NW03 | Date of Orthophotos: April 2006 - Used with permission from Montgomery County Government

## NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map other than for general planning purposes is not recommended. - Copyright 1998





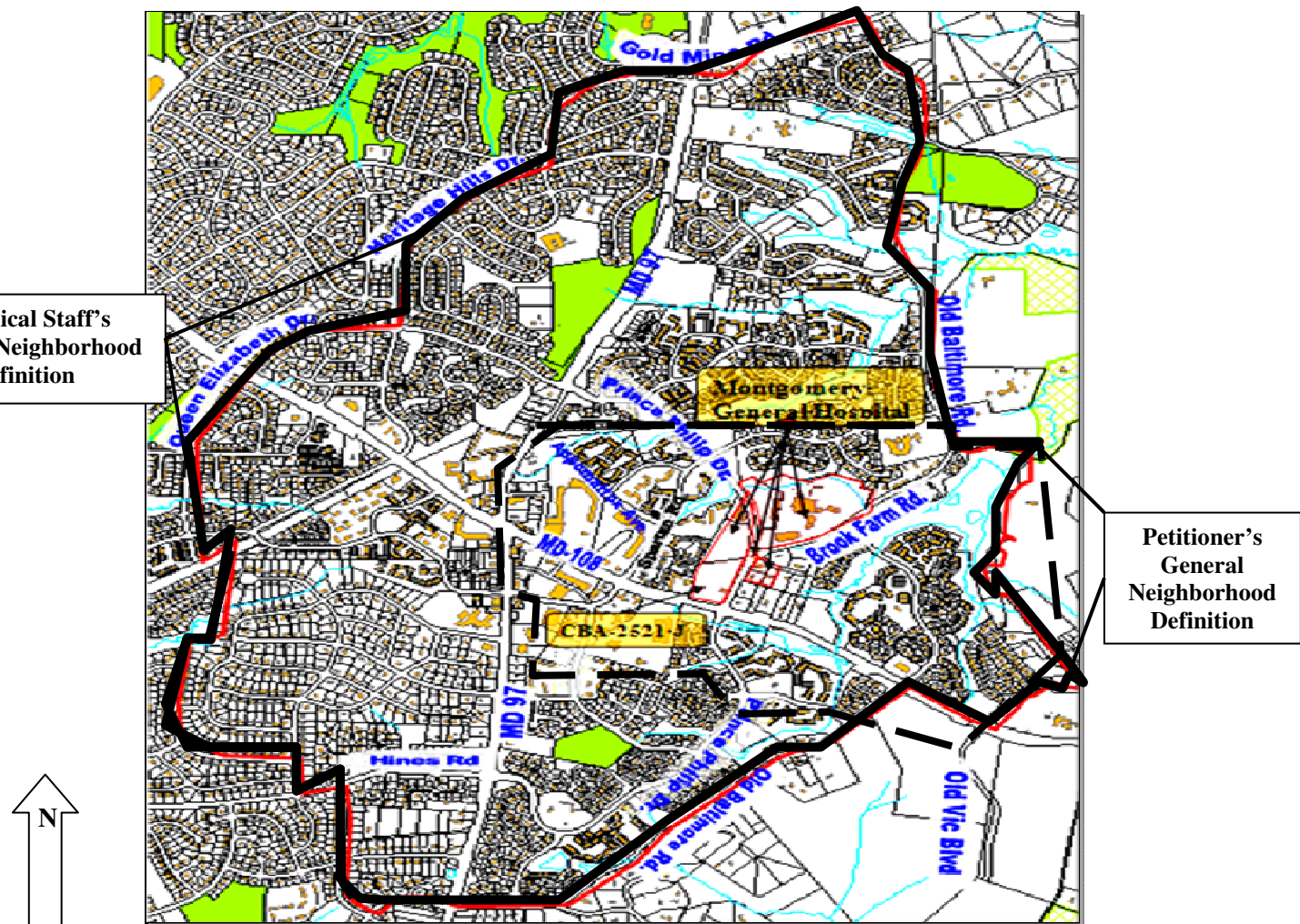
Technical Staff reports (Exhibit 28, p. 12) that property is not located within a Special Protection Area; however, the site is in the Hawlings River subwatershed of the Patuxent River basin and is designated as Class IV-P waters. There are no streams, wetlands, or 100-year floodplain on site, but there are Patuxent River Primary Management Area (PMA) boundaries on the northern and southern thirds of the site. Steep and severe slopes are found mostly along the entire north/northeast property lines.

The topography of the West Campus slopes gently from the west to form a grassy plateau in the center of the property before sloping down towards Prince Philip Drive. The West Campus is mostly covered with grass, and the property is bisected by the Patuxent River Primary Management Area, as noted by Staff in their report. Tr. 52-54.

### **B. The Neighborhood**

Technical Staff proposed to define the general neighborhood boundaries as Gold Mine Road to the north; Old Baltimore Road, James Creek and Old Vick Boulevard to the east; Old Baltimore Road to the South; and Blossom View Drive, Queen Elizabeth Drive, Heritage Hills Drive and Gold Mine Road to the west. These boundaries are depicted on Staff's Neighborhood Map (Exhibit 28, pp 8-9), which is reproduced on the next page.

Petitioner's recommended definition of the general neighborhood is smaller, as depicted by a dashed line the Hearing Examiner added to Technical Staff's map (and by a yellow line on Exhibit 35, which is not reproduced here). Tr. 65-67. The difference is accounted for by the fact that Technical Staff defined the neighborhood to be consistent with the neighborhood definition in CBA-2521-I, which took into account all the intersections which would be affected by additional traffic from the modification, rather than limiting it to the area of visual impact.



No one has cited any authority for limiting the definition of the general neighborhood to visual impacts, as distinguished from overall impacts, and while one could argue for either definition, the Hearing Examiner has decided to accept Technical Staff's proposed definition in this case because much of the anticipated impact from this project will be from increased traffic. Most of the visual impact from the hospital already exists. Though the addition of two new buildings will have some visual impact on the adjacent townhouse development, the greatest effects on the neighborhood may result from the addition of 276 new trips in the morning peak hour and 415 new trips in the evening peak hour. Exhibit 22(c), p. 2, Table D. It therefore makes sense to include the impacted intersections

within the definition of the general neighborhood, as was done by Technical Staff. Although Petitioner suggested a smaller area, it does not object to using Technical Staff's definition. Tr. 49-50.

Technical Staff described the neighborhood, in detail, as follows (Exhibit 28, p. 8):

The neighborhood is predominantly residential with a concentration of commercial, retail, and office uses around the intersection of MD 97 and MD 108, an area of approximately 90-acres identified as the Olney Town Center in the Olney Master Plan. The neighborhood also includes three churches, a library, and two elementary schools. MD 97 traverses the neighborhood from north to south and MD 108 traverses the neighborhood from east to west, intersecting closer to the middle portion of the neighborhood.

The northern portion of the neighborhood is developed with single-family houses in the RE-2/TDR and R-2 zones. The northern-most part of the neighborhood also includes a 23-acre church (the Marian Fathers Novitiate). The Montgomery General Hospital campuses are located on the eastern portion of the neighborhood, east of Georgia Avenue. The Main (East) Campus is separated from the residential developments to the north by a stream valley buffer.

The area east of the hospital is sparsely developed with single family homes in the R-200 and RE-2/TDR zones and also contains stream valley. The Brooke Grove Elementary School is located along the eastern boundary of the neighborhood, northeast of the hospital campus in the RE-2/TDR zone. The St. Peters Catholic Church and Day School is also located on the eastern portion of the neighborhood on the south side of MD 108. A mixture of residential uses, including townhouses, single-family dwellings in the R-90, R-200 and RE-2/TDR zones, is located farther south.

A mixture of office and commercial uses exist within the Village Mart Shopping Center, Olney Shopping Center, Olney Town Center Shopping Center, and Olney Shops, all of which are located in the western portion of the neighborhood at and near the intersection of MD 97 and MD 108 in the MXTC zone. The Safeway and Giant grocery stores are also located in the area along the north and south side of Spartan Road. The Hospital's West Campus (the subject site), is located east of the Olney Town Center Shopping Center, separated from the shopping center with townhouse developments in the PD-9 zone. The Olney Library, Refuge Church of Christ, St. John's Episcopal Church and the Only Elementary School are also located on the western portion of the neighborhood.

As noted by William Landfair, Petitioner's land planner, there is an office development in the OM Zone just west of the site, but it is the two townhome communities in the PD-9 Zone, immediately to the west of the West Campus, that would be most immediately impacted by development on the West Campus. Tr. 51.

### **C. Proposed Modification**

The Hospital desires to modify its special exception in order to permit the addition of two, four-story, Physician Office Buildings (POBs) to Petitioner's West Campus, and a parking lot with 499 regular parking spaces (inclusive of 9 accessible spaces) and 10 motorcycle spaces, to be located to the west of the buildings. Petitioner seeks a parking waiver to determine that the 499 spaces it will provide on the West campus are sufficient. In addition, Petitioner proposes to add a bus Transit Center to on the western edge of Petitioner's East Campus surface parking lot. Finally, Petitioner seeks to clarify the record as to the area of land covered by its hospital special exception, specifically requesting that its special exception approval be expanded to cover all of the 46.46 acres under Petitioner's ownership and/or control, as listed and shown on the "Consolidation Plan" (Ex. 22(m)), which includes the East Campus, the West Campus and an adjacent area identified as "Miscellaneous Parcels." According to Petitioner's Amended Statement of Operations (Exhibit 85(a), p.10),

"... Montgomery General Hospital anticipates that construction of the Proposed Physician Offices will satisfy the Hospital's need for additional physician space for at least the next five to seven years. The proposed modifications will enable Montgomery General Hospital to provide the expanded outpatient physician services necessary to meet current demand in a location convenient for both patients and doctors who need convenient access to MGH. This expansion is crucial to MGH's ability to continue the outstanding medical care it has provided to the community for so many years.

#### **1. The Proposed POBs and the Consolidated Special Exception Site:**

##### **Proposed Physician Office Buildings:**

The proposed Physician Office Buildings (POBs #3 and #4) will each be approximately fifty feet in height and will be located along Prince Philip Drive on Petitioner's West Campus property. Each building will contain approximately 60,000 square feet of floor area, and will be entered from the west side of the building, adjacent to the new parking lot.





**DEVELOPMENT STANDARDS**

SPECIAL EXCEPTION STANDARDS SECTION 59-G.2.31	REQUIRED/ALLOWED	PROVIDED
MINIMUM AREA	5 ACRES	EAST CAMPUS: 27.19 AC WEST CAMPUS: 14.61 AC. MISC. PARCELS: 4.66 AC. TOTAL PROVIDED: 46.46 AC.
MINIMUM FRONTAGE	200'	1335'
BUILDING AREA	NA	POB 3: 60,000 GSF POB 4: 60,000 GSF
BUILDING HEIGHT	145' MAXIMUM	60'
BUILDING SETBACK	NO CLOSER TO A LOT LINE THAN A DISTANCE EQUAL TO THE BUILDING HEIGHT WHEN ADJACENT TO LAND WHICH IS IN A SINGLE FAMILY ZONE OR USES AND IN ALL OTHER CASES NO LESS THAN 50' FROM A LOT LINE.	50'
PARKING	OFFICE, MEDICAL PRACTITIONER'S 4 PARKING SPACES PER EACH PRACTITIONER OCCUPYING OR USING SUCH OFFICE*	TOTAL PARKING SPACES: 499 ACCESSIBLE SPACES: 9 ACCESSIBLE VAN SPACES: 3 MOTORCYCLE SPACES: 10

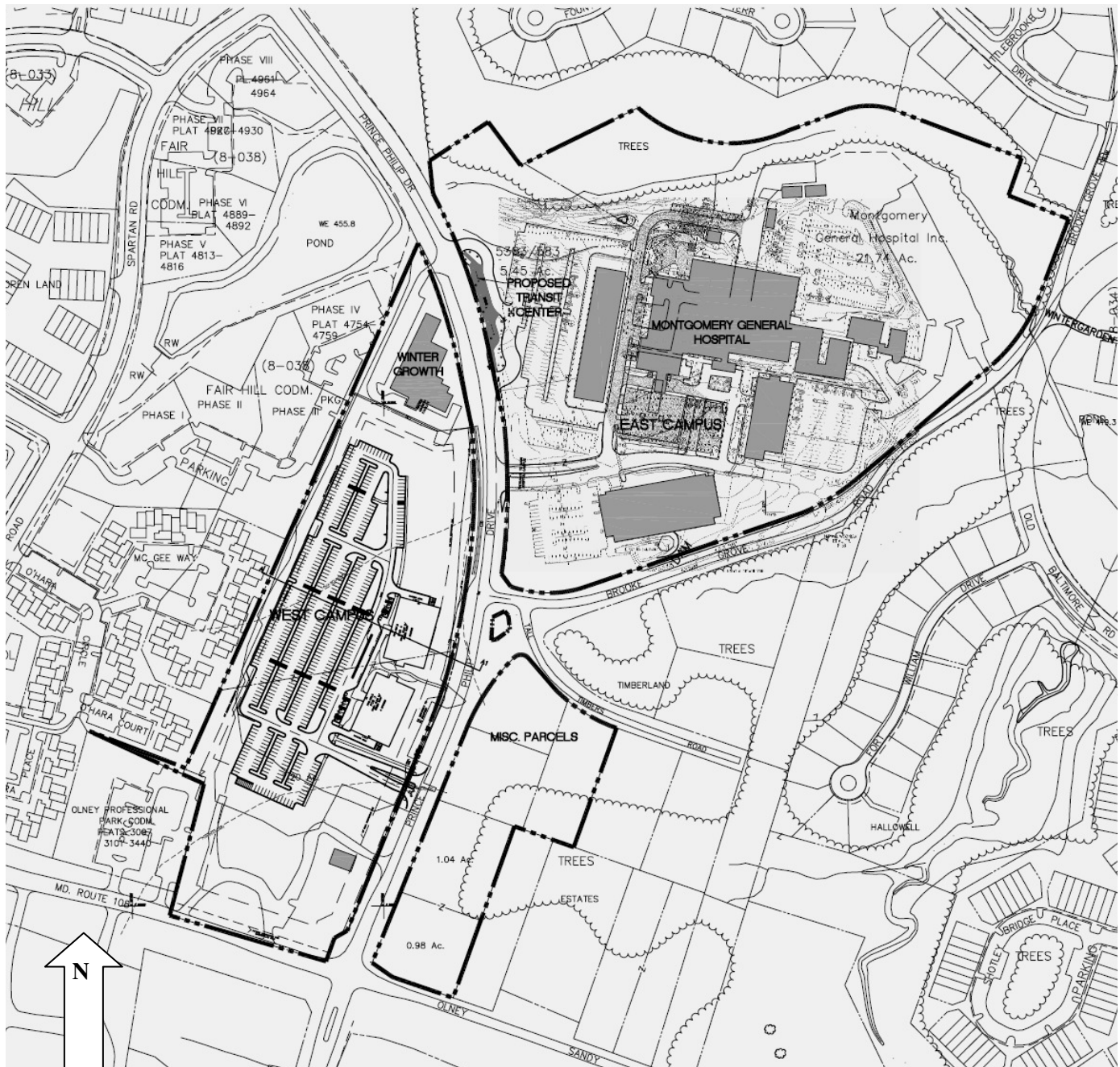
\* BASED ON THE APPLICANT'S EXPERIENCE WITH THE OPERATIONS OF EXISTING PHYSICIANS OFFICE BUILDINGS ON THE EAST CAMPUS, THE APPLICANT ESTIMATES THAT THE OCCUPANCY RATE OF THE TWO PHYSICIAN OFFICE BUILDINGS WILL BE A MAXIMUM OF ONE (1) PRACTITIONER PER 1,000 SQUARE FEET OF OFFICE SPACE, OR A TOTAL OF 120 PRACTITIONERS; REQUIRING A TOTAL OF 480 PARKING SPACES.

**GENERAL NOTES:**

1. EXISTING TOPOGRAPHY BY LSA AND VIKI, BOUNDARY PREPARED BY VIKI: 2' CONTOUR INTERVALS.
2. THE HORIZONTAL DATUM IS BASED ON MARYLAND STATE GRID NORTH (NAD 83/91)
3. THE VERTICAL DATUM IS BASED ON W.S.S.C. BENCHMARK #5851, STANDARD WSSC BRASS DISK SET IN CONCRETE GRATED CATCH BASIN, SOUTH OF THE INTERSECTION OF MARYLAND ROUTE 108 AND PRINCE PHILLIP DRIVE, ELEVATION 491.57 AND REFERENCE BENCHMARK (BM "A") SHOWN ON THE SAME RECOVERY SHEET, BRASS BOLT IN TOP CONCRETE HEADWALL, 50 FEET NORTH OF BM, ELEVATION 492.54. THE VERTICAL DATUM IS NGVD29.
4. THE WEST CAMPUS PROPERTY (EXCLUDING LOT N-961 CONTAINING THE "WINTER GROWTH" ADULT DAY CARE FACILITY) IS LOCATED ON TAX ASSESSMENT MAP NO. HT62 AS PARCEL P207, P120, AND P209. THE TAX ACCOUNT NO.S ARE 08-00715118, 08-00715131 AND 08-00715120, .
5. DOMESTIC WATER, SEWER, FIRE PROTECTION AND ELECTRICAL SERVICE WILL BE SUPPLIED BY CONNECTIONS TO EXISTING PUBLIC LINES WITHIN PRINCE PHILLIP DRIVE.
6. EXISTING WATER & SEWER SERVICE CATEGORIES: W1/S1
7. PROPOSED USE: PHYSICIAN OFFICE BUILDING
8. EXISTING ZONING: R-60
9. THIS PROPERTY LIES WITHIN THE OLNEY MASTER PLAN.
10. THERE ARE NO DESIGNATED HISTORIC SITES ASSOCIATED WITH THIS PROPERTY.
11. PREVIOUS SPECIAL EXCEPTION CASES: CBA-2521, CBA-2521A-I.
12. THE SUBJECT PROPERTY IS LOCATED IN ZONE "C" (AREA OF MINIMAL FLOODING) AS SHOWN ON FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 240049 0200 C, FOR MONTGOMERY COUNTY, MARYLAND, DATED AUGUST 5, 1991.
13. NRI/FSD NO. 420080480 WAS APPROVED BY M-NCPPC NOVEMBER 14, 2007.
14. THE PHYSICIAN OFFICE BUILDINGS WILL PROVIDE A MINIMUM OF 90% GREENROOF COVERAGE.

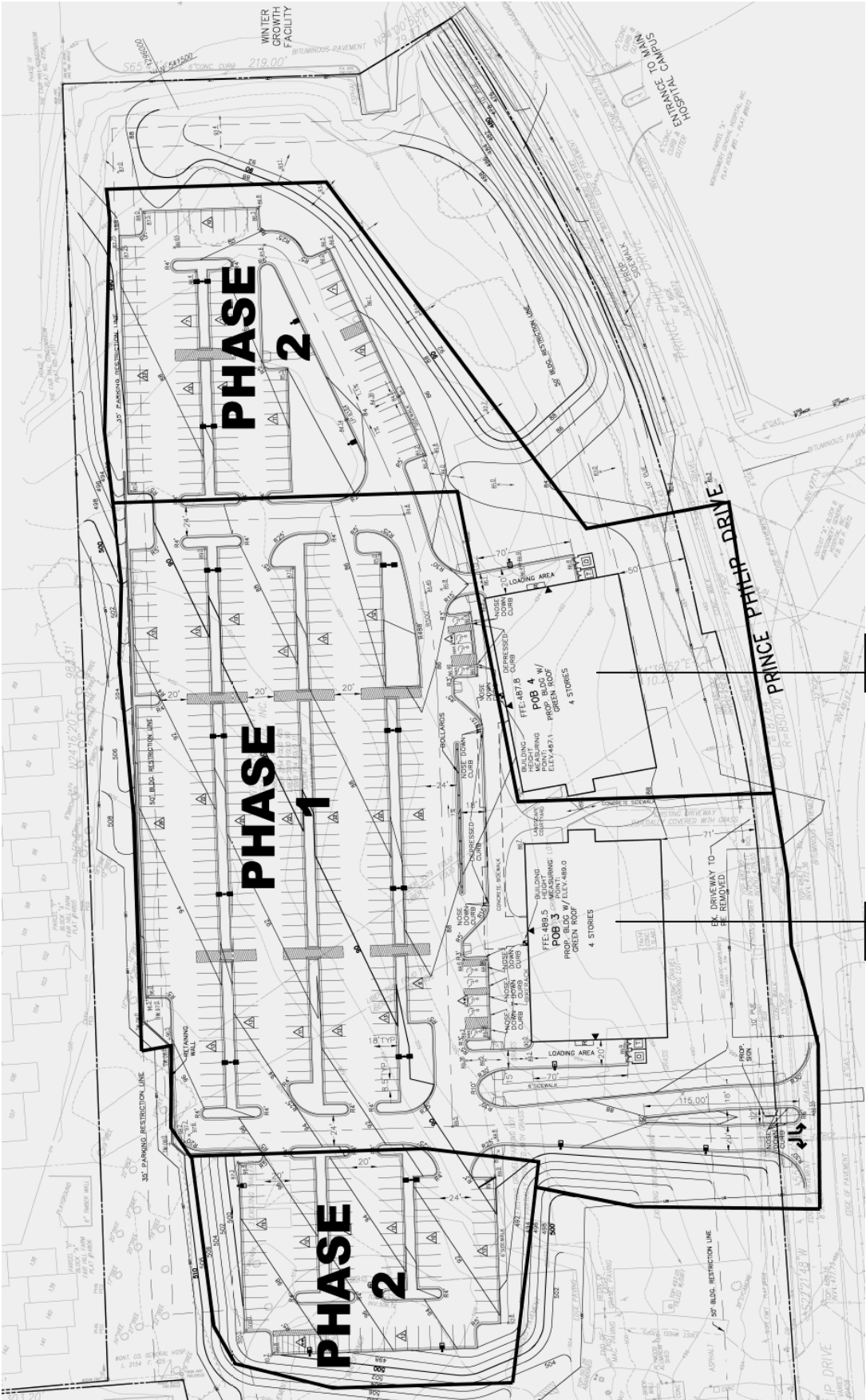
The newly developed West Campus will have 1,335 feet of frontage on Prince Phillip Drive (not counting the frontage on the Winter Growth Lot), and 378 feet of frontage along Maryland 108.<sup>3</sup>

The entire campus (West, East and “Misc. Parcels”), is shown below, with the changes (Exhibit 39):



<sup>3</sup> The Winter Growth facility, which is located to the north, is not the subject of this modification, because that property won't be redeveloped or affected in any way by the modification. It has its own parking and access to Prince Phillip Drive contained within the Winter Growth property. Tr. 52-53.

The new West Campus buildings will be constructed in two phases, as shown below. Ex. 22(k):



POB #4

POB #3

As discussed in Petitioner's Amended Statement of Operations (Exhibit 85(a), p. 7), POB #3, along with associated parking accommodations, will be constructed in Phase 1. POB #4 and the remainder of the parking will be constructed in Phase 2. Petitioner hopes to break ground in the spring of 2010, and there will be a 12 to 14 month construction time frame in Phase 1, so delivery would be in the summer of 2011. Tr. 158.

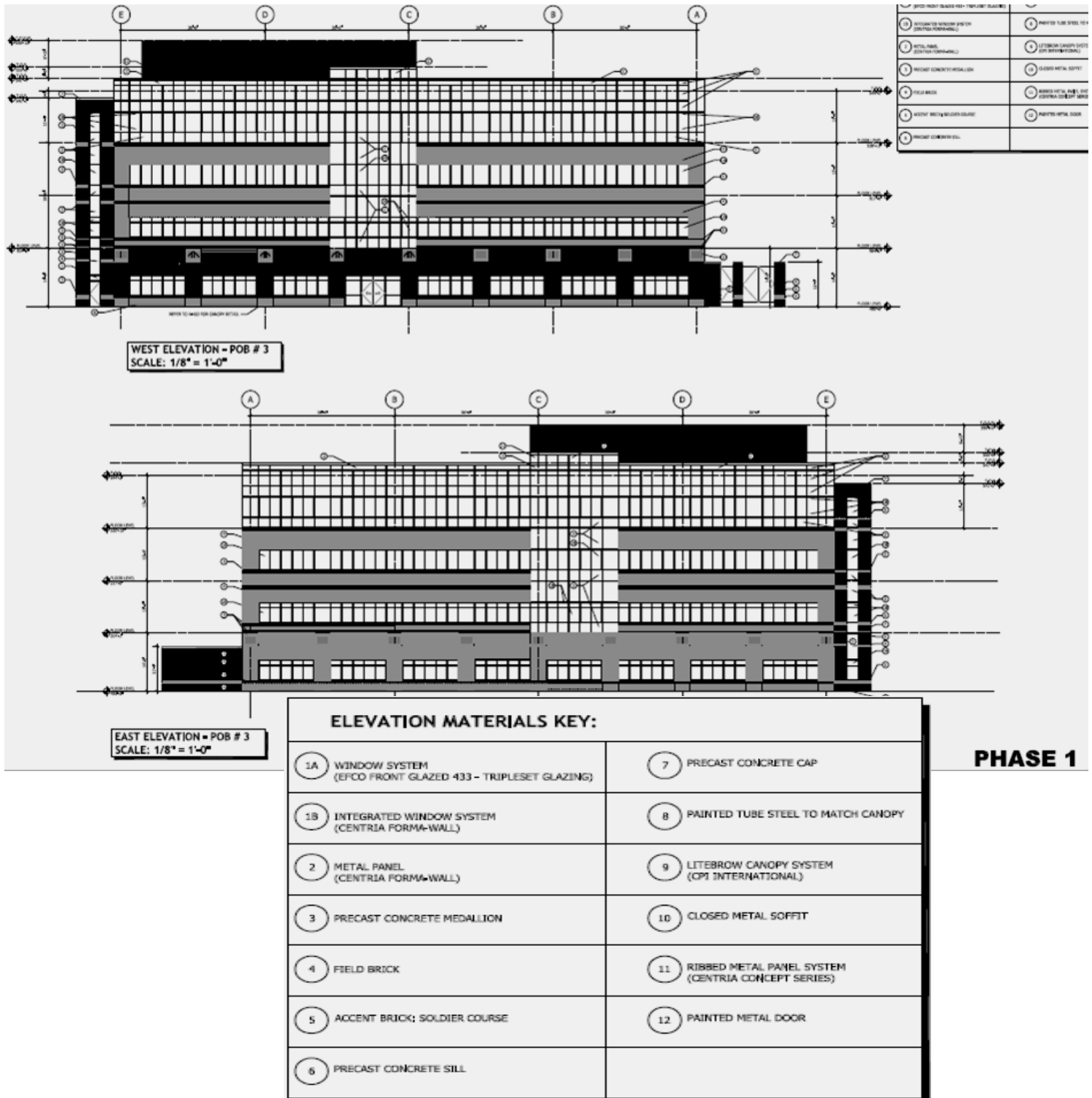
The building themselves will be owned by a ground lessee under a long-term lease with Petitioner, which owns the land. The existing two POBs on the East Campus are owned by a for-profit corporation, Foulger-Pratt, which may enter into a similar lease arrangement with Petitioner for the West Campus POBs. Tr. 18, 33-35, 39-41. Petitioner has agreed (Exhibit 61) to a condition which would require any such lease to contain the following clause:

“Notwithstanding any other provision of this lease, Lessor and Lessee are bound by the terms and conditions of the special exception that governs the use of this property.”

The two new physician office buildings will be located near Prince Philip Drive; however, their entrances will face the new parking area to the west. Petitioner describes the proposed new buildings in its Amended Statement of Operations (Exhibit 85(a), pp. 7-8):

The Proposed Physician Offices will be designed to utilize similar architectural elements providing visual integration with the main hospital campus, but at the same time update the style for a more contemporary appearance. The primary materials will be masonry with curtain wall and ribbon windows. The buildings will be sited along Prince Philip Drive and convey a street presence, with the main access driveway located to the south of the buildings, approximately 380 feet from the intersection of MD Route 108 and Prince Philip Drive. An attractively landscaped parking lot, containing 499 regular parking spaces (inclusive of 9 accessible spaces) and 10 motorcycle spaces, will be located to the rear of the proposed buildings. Generous setbacks and landscaping will provide an effective buffer from adjoining residential properties, and an attractive streetscape along Prince Philip Drive. Proposed pedestrian walkways will assure easy access from the Proposed Physician Offices on the West Campus to the MGH Facilities on the East Campus.

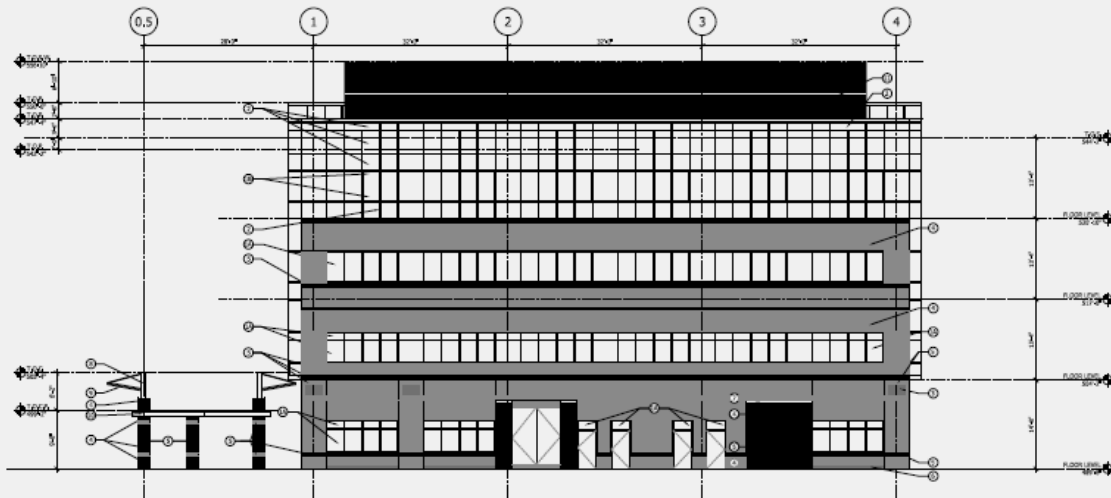
Petitioner's architect, Jason Beshore, testified about the proposed POBs he designed. The buildings will be identical in size (150 feet by 100 feet), each with a resulting footprint of 15,000 square feet. The buildings are approximately 57 feet from grade to top of parapet height, and are shown in the following elevations (Exhibits 22(u), (v) and (w)). Tr. 139. The elevations are shown for POB #3. The elevations for POB #4 (Ex. 22(cc), (dd) and (ee)) are not shown, but are very similar.







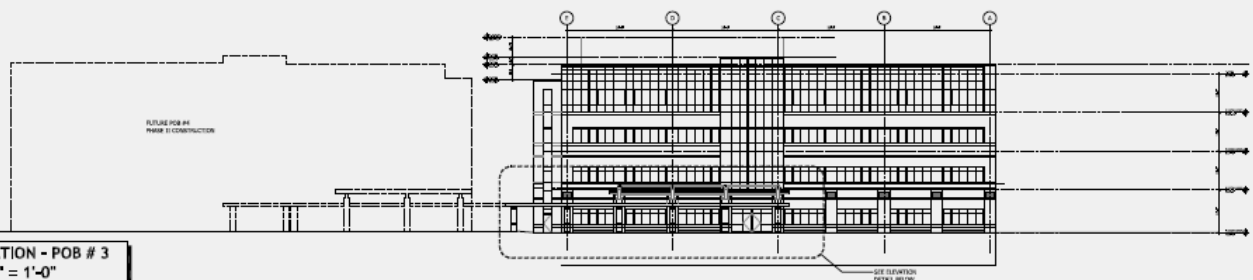
**NORTH ELEVATION - POB # 3**  
SCALE: 1/8" = 1'-0"



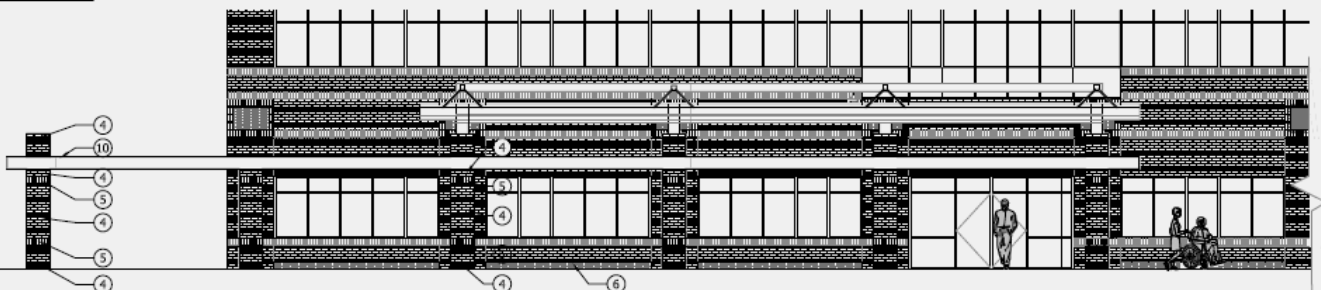
**SOUTH ELEVATION - POB # 3**  
SCALE: 1/8" = 1'-0"

ELEVATION MATERIALS KEY:	
14	WINDOW SYSTEM (SPD FINISH GLASSING - TRANSPARENT GLASSING)
15	INTEGRATED WINDOW SYSTEM (SPD FINISH GLASSING)
16	METAL PANEL (SPD FINISH GLASSING)
17	PRECAST CONCRETE RETAILER
18	FIELD BRICK
19	ACCENT BRICK (SPD FINISH GLASSING)
20	PRECAST CONCRETE SILL
21	PRECAST CONCRETE CIP
22	PAINTED TUBES STEEL TO MATCH CANOPY
23	OUTER CANOPY SYSTEM (SPD FINISH GLASSING)
24	METAL SCOTCH
25	HEAVY METAL PANEL SYSTEM (SPD FINISH GLASSING)
26	PAINTED METAL EOOD

## PHASE 1



**WEST ELEVATION - POB # 3**  
SCALE: 1/16" = 1'-0"



**WEST ELEVATION - POB # 3**  
SCALE: 1/4" = 1'-0"

Both Technical Staff and the Planning Board recommended, as a condition, that the final design of the building façade must substantially conform to the architectural renderings presented in these elevations (Exhibit 28 p. 2 and Exhibit 31, p. 2), and the Hearing Examiner has therefore made that a recommended condition of the special exception.

Mr. Beshore described the architecture as,

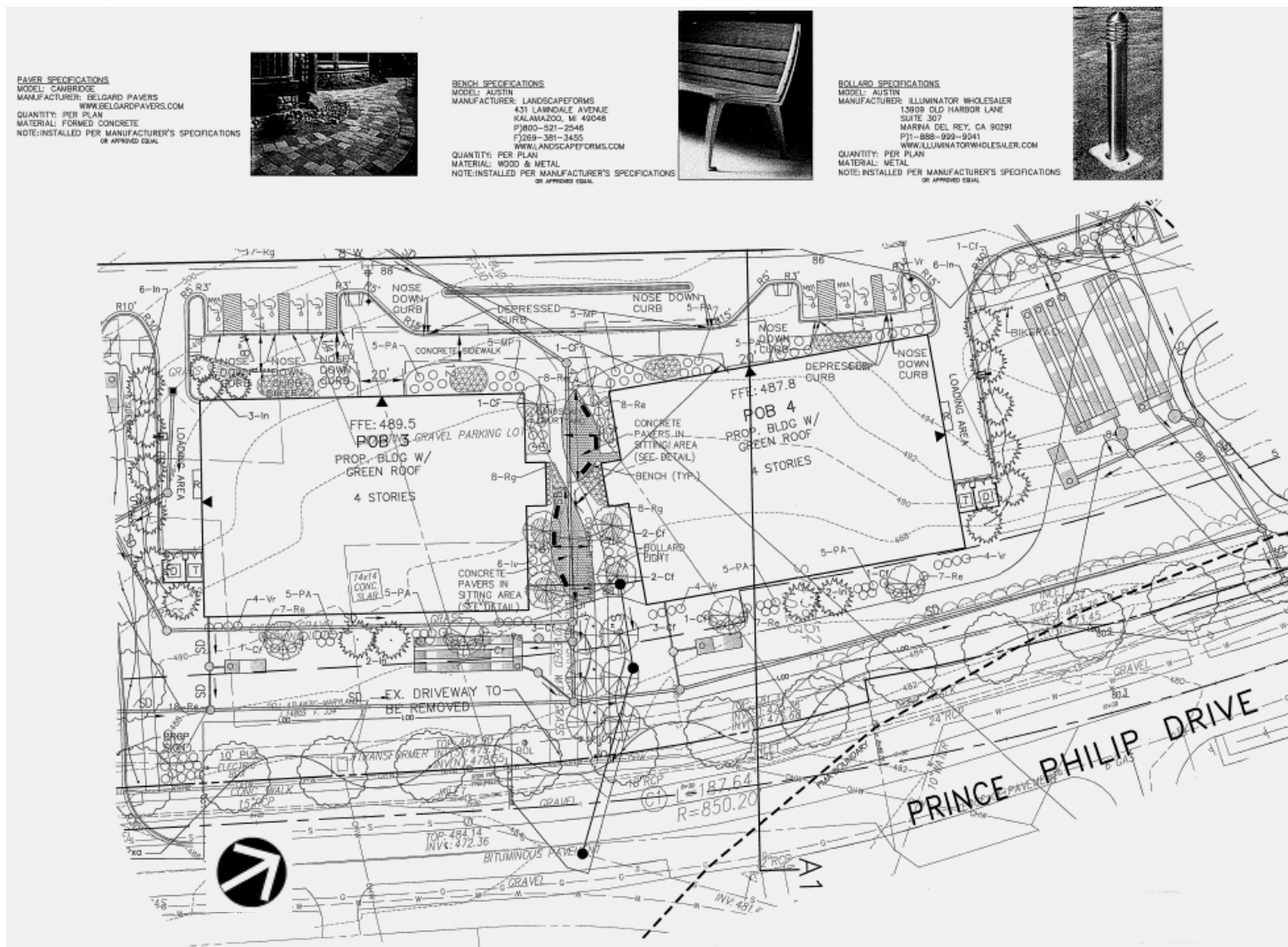
. . . a contemporary modern building with an upper level style that's kind of providing a cap for the building. The middle section is basically meant to divide the building and kind of break up the box as the box works most efficiently in our healthcare planning in a module. The 15,000 square feet is also a planning module that works really well from a medical office building . . . [Tr. 140.]

He noted that the area on top of the building shown on all the elevations is a screen wall, screening the air handling units from the adjacent areas. Tr. 140. Mr. Beshore kept a pedestrian scale and residential proportion for windows, using brick and masonry that is similar to that found in the neighborhood. He tried to lower the view of the site by placing the buildings away from the residential areas. Tr. 179. Both of the loading dock entrances are placed as far away from the pedestrian area as possible. They include a transformer enclosure and a garbage area for the dumpster. Also, on the sides of the buildings are very small areas for recycling. There will be a pedestrian walkway that connects both buildings, and it will be covered with a canopy. All of the handicapped parking is in front of the building. Tr. 143-154.

There will also be a winding pedestrian way in a courtyard area between the buildings, which will be landscaped and have some low-level lighting. The entrances, which are on the west side of the buildings, facing the parking lot, are offset from the most common path, and they break up the massing by being asymmetrical. The plan includes a low retaining wall in front of the building, to be used as a garden wall with a stone veneer and some landscaping behind it. It is intended as a place for

some seating in front to accommodate people waiting to be picked up, which is a common practice in medical office buildings. Tr. 145-152.

Both the Technical Staff and Planning Board recommended a condition (4(c)), calling for more landscaping in the courtyard. To accomplish this, Petitioner will add low shrubs, some annuals and perennial small flowers and bushes, and a couple of smaller ornamental trees to that area. A concrete sidewalk weaves through, and decorative pavers and benches will be installed, as shown in the final Hardscape Plan (Exhibit 71(c)). Tr. 152-155.



Petitioner's land use expert, William Landfair, opined that the buildings will relate well not only with the street but also with each other. The courtyard between them will serve as an amenity for staff, patients and visitors to the site. The buildings will be connected by a covered walkway, which in turn provides access to a "lay-by" for convenience. A lay-by is an area of temporary parking for vehicles in front of the main entrances to the buildings. Tr. 68-69.

Mr. Landfair observed that the pedestrian circulation will be improved, not just with a sidewalk along the monumental entrance but also with sidewalks in front of the buildings themselves and a sidewalk that will connect the courtyard area between the two buildings with a sidewalk that will run along Prince Philip Drive. Tr. 72.

#### **Consolidated Special Exception Site:**

Since MGH's last modification petition, the hospital acquired an additional 2.02 acres of land, and Petitioner seeks to consolidate all its land as part of the overall special exception site. The entire hospital campus now consists of 46.46 acres, as shown in the following chart from Petitioner's Amended Statement of Operations (Exhibit 85(a), pp. 3-4) and in its Consolidation Plan (Exhibit 22(m)).

#### **PROPERTY TABULATION**

IDENTIFICATION NO.	TAX ACCOUNT NO.	PARCEL/LOT	STREET ADDRESS	ACREAGE
<b>EAST CAMPUS</b>				
<b>(EAST OF PRINCE PHILIP DRIVE, NORTH OF BROOK FARM DRIVE)</b>				
1	08-00715095	N-900	18101 PRINCE PHILIP DRIVE, OLNEY	21.74
2	08-02167798	N-933	18111 PRINCE PHILIP DRIVE, OLNEY	5.45
<b>TOTAL EAST CAMPUS</b>				<b>27.19</b>

**WEST CAMPUS**  
**(WEST OF PRINCE PHILIP DRIVE, NORTH OF MD ROUTE 108)**

3	08-03035984	N-961*	18110 PRINCE PHILIP DRIVE, OLNEY	1.51
4	08-00715131	P-120	2807 OLNEY SANDY SPRING ROAD, OLNEY	6.03
5	08-00715118	P-207**	2805 OLNEY SANDY SPRING ROAD, OLNEY	7.05
6	08-00715120	P-209	OLNEY SANDY SPRING ROAD, OLNEY	0.02
<b>TOTAL WEST CAMPUS</b>				<b>14.61</b>

**MISCELLANEOUS PARCELS**

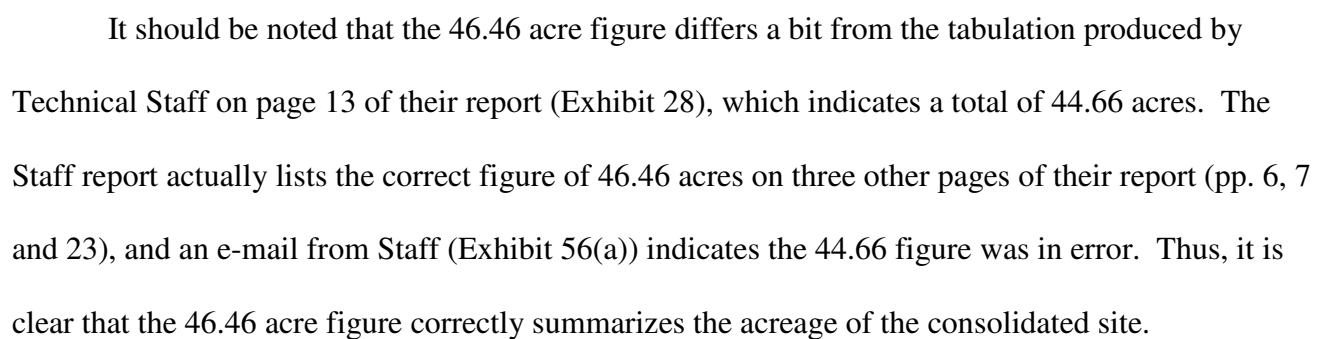
7	08-00715107	N-122	BROOK FARM DRIVE, OLNEY	0.06
8	08-00714320	LOT 3, BLOCK B	2608 TALL TIMBERS ROAD, OLNEY	0.92
9	08-00707632	LOT 4, BLOCK B	17913 PRINCE PHILIP DRIVE, OLNEY	0.76
10	08-00708215	LOT 5, BLOCK B	17909 PRINCE PHILIP DRIVE, OLNEY	0.90
11	08-00701316	LOT PRT 6 & PRT 7, 17905 PRINCE PHILIP DRIVE, OLNEY BLOCK B		1.04
12	08-00719960	LOT PRT 6 & PRT 7, 17901 PRINCE PHILIP DRIVE, OLNEY BLOCK B		0.98
<b>TOTAL MISCELLANEOUS ACREAGE</b>				<b>4.66</b>
<b>TOTAL HOSPITAL CAMPUS ACREAGE</b>				<b>46.46</b>

\*ALSO SUBJECT TO SPECIAL EXCEPTIONS FOR A DAY CARE FACILITY FOR SENIOR ADULTS AND A LARGE GROUP HOME, KNOWN AS WINTER GROWTH.

\*\*ALSO SUBJECT TO A SPECIAL EXCEPTION FOR A SERVICE ORGANIZATION (THRIFT SHOP).

The Property Tabulation from the Consolidation Plan, rather than the one from the Amended Statement of Operations was reproduced above, because it is numerically keyed into the consolidation map on Exhibit 22(m), reproduced on the next page.





Finally, the Hearing Examiner notes that approval of the consolidation of the MGH Campus into a single special exception site, 46.46 acres in size, as set forth in Exhibit 22(m), does not, in and of itself, constitute approval of any physical or operational changes to the site not specifically authorized by the Board either as a result of the instant petition or later ones. A condition to this effect is recommended in Part V of this report.

## **2. Staff and Hours of Operation:**

The mix of services proposed for the new POBs include those that are found in the physician office buildings on the main campus. These include primary care, specialists and laboratory services. It is also possible that there may be some sort of ancillary retail in these buildings, such as a food service and a gift shop or the like. Tr. 68.

Since there will be 120,000 square feet of floor area in the two new POBs, there may be up to 360 employees of the physician's offices<sup>4</sup> (*i.e.*, doctors, nurses and administrative staff), based on Petitioner's experience that this type of use usually has between 2.5 and 3 employees for every 1,000 square feet of floor area ( $3 \times 120 = 360$ ). Petitioner also estimates that there will be up to 300 patients rotating in and out of the buildings during the day, based on experience that this type of use generates from 1.5 to 2.5 patients per 1,000 square feet of floor space ( $2.5 \times 120 = 300$ ). Exhibit 85(a), p. 9.

Petitioner's hours of operation are described in the Amended Statement of Operations (Exhibit 85(a), p. 9):

Petitioner's hours of operation of the Hospital are twenty-four (24) hours per day, seven (7) days a week. These hours are unchanged by the instant modification. The hours of operation for the POBs would be typical for office buildings, but with some variations due to the association of the POBs with the Hospital. There will be no overnight stays of patients in the POBs (unless associated with some type of research or treatment program). Generally, the hours of operation of the POBs would be 8:00 A.M. until 5:00 P.M.

---

<sup>4</sup> Petitioner used the term "employees" in its Amended Statement of Operations (Exhibit 85(a), p. 9), but the Hearing Examiner takes that to mean employees of the individual physicians offices, not employees of the hospital. This was confirmed by Petitioner. Exhibit 63.

However, there will be instances when doctors, staff or patients may arrive earlier or depart later than those hours, which represent the core period of activity for the POBs.

The occasional extended hours will require lighting to remain on in the parking lot; however, the rear (westernmost) row of pole-light fixtures in the West Campus surface parking facility will have shut-off devices that extinguish the lights between 9:00 p.m. and 6:00 a.m., in order to minimize impacts on the adjacent townhouse communities. Exhibit 85(a), p. 9 and Tr. 228-229.

### **3. Transportation, Access, Parking and the Parking Waiver Request:**

#### **Transportation:**

Petitioner's transportation planner, Craig Hedberg, did a local area transportation review (LATR) study assessing the impact of the proposed improvements on the community. His initial study was completed in January 2009 (Exhibit 18(a)), and a revised study, based on a reduction of planned floor area from 130,000 square feet to 120,000 square feet, was completed on April 17, 2009 (Exhibit 22(c)). Both studies rely on the same base data.

The proposed improvements will generate about 276 new trips in the a.m. peak hour and 415 in the p.m. peak hour, as shown below in Table D of Mr. Hedberg's revised study (Exhibit 22(c), p 2).

**Table D**  
**Physicians Office Buildings 3/4**  
**Trip Generation**

<b>Trip Generation Rates/ Total</b>	<b>AM Peak Hour</b>			<b>PM Peak Hour</b>		
	<b>In</b>	<b>Out</b>	<b>Total</b>	<b>In</b>	<b>Out</b>	<b>Total</b>
Trip Rate/1,000 SF [for a Medical-Dental Office Building (ITE LUC 720)]	1.82	0.48	2.30	0.93	2.53	3.46
120,000 SF Medical Office	218	58	276	112	304	415

As can be seen, the trip figures are based on the floor space being added that will generate new trips, not on new staff being added. Technical Staff accepted these figures, as evidenced on page 9 of the Transportation Staff Memorandum of May 12, 2009, attached to Technical Staff report (Ex. 28).

Technical Staff determines the LATR study area (*i.e.*, how many intersections out from the hospital must be evaluated), and in this case, Technical Staff required that 9 off-site intersections and the one on-site driveway intersection be studied. Mr. Hedberg followed the full procedures outlined in the Local Area Review Guidelines, and that included getting existing traffic data, evaluating existing traffic conditions and then including traffic from other approved developments to arrive at a background scenario. The final layer is to add the new traffic projected from the subject site to determine the total critical lane volume (CLV) at the studied intersections, which Mr. Hedberg then summarized in Table E on page 3 of his revised report (Exhibit 22(c)):

**Table E**  
**Intersection Critical Lane Volumes**  
**Total Traffic Conditions**

Intersection	AM Peak Hour	PM Peak Hour
	CLV <sup>1</sup>	CLV
1. Georgia Avenue (MD 97)/Gold Mine Road	1214	1023
2. Georgia Avenue (MD 97)/Pr. Philip Dr./Queen Elizabeth Dr.	1275	1262
3. Olney Sandy Spring Road (MD 108)/Queen Elizabeth Drive	1009	1053
4. Georgia Avenue (MD 97)/Olney Sandy Spring Rd (MD 108)	1443	1374
5. Olney Sandy Spring Road (MD 108)/Spartan Road	1009	1085
6. Georgia Avenue (MD 97)/Prince Philip Drive/Hines Road	1342	1244
<b>7. Olney Sandy Spring Road (MD 108)/Old Baltimore Road</b>	<b>1489</b>	1208
8. Olney Sandy Spring Road (MD 108)/Prince Philip Drive	1271	1284
9. Prince Philip Drive/Spartan Road	711	794
10. Prince Philip Drive/POB Driveway	557	674

<sup>1</sup> CLV = Critical Lane Volume

Mr. Hedberg found that all the off-site intersections and the driveway which will service the new POBs will operate within the adopted congestion standard for Olney (CLV of 1,450), except for one, which is the Olney Sandy Spring Road (MD 108) and Old Baltimore Road intersection during the a.m. peak hour (highlighted in the above table by the Hearing Examiner). Under this projection, the site generated traffic will add an additional three critical lane volume movements to that intersection, bringing the CLV at that intersection up from 1,486 to 1,489. Exhibit 22(c), p. 17. Technical Staff also accepted these findings, as evidenced on page 10 of the Transportation Staff Memorandum of May 12, 2009, attached to Technical Staff report (Exhibit 28). Given those circumstances, a mitigation measure must be identified to satisfy LATR.

There is also a PAMR (Policy Area Mobility Review) requirement of 10 percent mitigation in the Olney Policy Area. Because the modification will generate 415 peak hour trips in the p.m. peak hour, a mitigation equivalent to 41.5 trips is required, and Technical Staff rounded that up to a 42-trip mitigation that Petitioner needs to provide.

As observed by Transportation Staff in its May 12, 2009 memorandum (p. 10), “Section I of the *LATR/PAMR Guidelines* [provides that] a non-auto facility such as a ‘transit center’ can be considered as trip mitigation to address both LATR and PAMR impacts associated with a development. Additionally, under Section IV of the *LATR/PAMR Guidelines*, an applicant providing a ‘traffic mitigation program’ can be considered to have met LATR elsewhere where the trips generated by the site is [*sic*] less than five Critical Lane Movements.”

Transportation Staff determined that the proposed bus transit center would satisfy these *LATR/PAMR Guidelines* because the increase in the CLV at the one offending intersection will be only three critical lane movements (*i.e.*, “less than five”), and the transit center, which is recommended in the Olney Master Plan as well as by WMATA, will “provide ‘traffic mitigation’ within the Olney



Policy Area and offset [the] development's LATR impact at MD 108/Old Baltimore Road intersection." Transportation Staff's May 12, 2009 memorandum (pp. 10-11).

Petitioner proposes a transit center that can accommodate four bus bays, three along Prince Philip Drive and one on the internal drive accessing the parking lot. Although the State Highway Administration suggested that an improvement at the Old Baltimore Road/MD 108 intersection might be a better mitigation plan, the County DOT, Technical Staff and the Planning Board all felt that the transit center was the preferred mitigation plan for the County. Tr. 205-208.

Transportation Staff also determined that the proposed bus transit center will satisfy the PAMR requirement of a 42-trip mitigation because the Planning Board established the value of each mitigated trip at \$11,000, and the new transit center will cost approximately \$450,000 to construct. Transportation Staff's May 12, 2009 memorandum (pp. 11-12)<sup>5</sup> and Tr. 195-203. Although Transportation Staff had some concerns which will be discussed below in connection with access and parking, Staff found that LATR and PAMR were satisfied and that its concerns could be addressed by Petitioner submitting a long range master plan for the campus in connection with any future modification requests. Exhibit 28, p. 10-11.

Mr. Hedberg also did a queuing analysis of the northbound left turn lanes into the site and the southbound left turns from Prince Phillip Drive onto eastbound MD 108 during both a.m. and p.m. peak periods. Mr. Hedberg determined that there is adequate queuing distance within the 380 feet available in these turn lanes, as summarized in Table F on page 4 of Exhibit 22(c). He further testified that the County DOT and Technical Staff are in agreement that there is adequate left turn storage distance between the site driveway and Maryland 108. Tr. 211-214.

---

<sup>5</sup> Transportation Staff rejected Petitioner's argument that it should get credit for the cost of the land (\$509,432), in addition to the construction costs of \$450,094 because the land in question is not being "dedicated" for public use, and the Growth Policy contains no provision permitting the banking of PAMR mitigation credits to apply to future

In Mr. Hedberg's opinion, the transportation network is adequate to accommodate the proposed use, and the site is safe for both vehicular and pedestrian traffic. Tr. 216-217. There is no contrary evidence, and the Hearing Examiner accepts this finding.

**Access to the Site:**

Petitioner's plans call for a single point of access to the West Campus. This access would be "a monumental entrance" located off of Prince Philip Drive, approximately 460 feet north of its intersection with Maryland 108. It is called "monumental" because it will have a median separating the single incoming lane from the two outbound lanes, and will have a monument entrance sign. Its 30-foot turning radius will exceed what would be necessary, normally, for emergency vehicles. Mr. Hedberg testified that the width and divided nature of the monument driveway will allow flexibility for emergency access should one lane be blocked. Tr. 210-211.

Technical Staff does not favor the single-access approach. Exhibit 28, p. 11. Rather, Transportation Staff would prefer to have a second access point off Prince Philip Drive, just to the north of POB #4, which would line up with Brooke Farm Drive. Petitioner very strongly opposes that suggestion. Petitioner feels that the additional driveway could be located anywhere along Prince Philip Drive to the north of those buildings, and because Petitioner's building program in the future may require another building in that immediate area, it didn't want to be locked into that particular location for a second entrance. Petitioner feels that there is some justification for a second entrance directly opposite the main hospital entrance, which places it further up Prince Philip Drive, closer to the Winter Growth facility. In Mr. Landfair's professional opinion, even with the two new POBs, it would be sufficient to have the single monumental driveway entrance, where it is located along Prince Philip Drive, given the overall size of the parking facility itself and the proximity of even the

---

developments. Nevertheless, Staff agreed to accept the \$450,094 construction cost as sufficient PAMR mitigation, even though the actual value of the 42-trip mitigation requirement is \$462,000 (42 trips X \$11,000).

furthest spaces to the buildings. He believes the layout works very well and will be safe, adequate and efficient for the purposes of this application. Tr. 75-77. Michael Goodman, Petitioner's civil engineer, added that the single entrance Petitioner is proposing has adequate sight distance, as does the new entrance for the proposed transit center. Tr. 130.

Ultimately, Technical Staff recommended approval of the single-access plan at this time, stating (Exhibit 28, p. 18):

Although concerns with the efficiency and adequacy of the proposed single access to the west campus site have been expressed by Planning Department staff and applicable County agencies, there appears to be unanimity that the current proposal satisfies minimum Code requirements. Moreover, future improvements on the campus will almost undoubtedly necessitate a second point of access and other improvements to the circulation pattern of the entire hospital site.

In lieu of the second access point at this time, Technical Staff requested that Petitioner submit "a long-range master plan for the entire hospital campus showing existing and future buildings, access roads, pedestrian circulation/roadway connection options, etc. for staff and Planning Board review as an element of any future special exception modification request for the hospital campus." Exhibit 28, p. 11. As discussed elsewhere in this report, the requirement for submission of a long-range campus plan is a condition recommended by the Hearing Examiner.

Given Technical Staff's "bottom line" recommending approval of the single access to the West Campus at this time, there is no basis in the record for the Hearing Examiner to reject Petitioner's plan. In addition, the evidence is that there is adequate room for queuing in the outbound lanes exiting the single access drive onto Prince Philip Drive. Tr. 69-70. Mr. Hedberg analyzed potential queues for the driveway exit, and determined that the projected queue length of 115 feet during the peak hours was well within the approximately 240 foot long stacking area within the site (counting the length of the access drive plus the distance back to the parking lot), as described on pp. 4-5 of Exhibit 22(c). Tr. 215.

Based on this record, the Hearing Examiner finds that Petitioner's plan for single access to the

West Campus is safe and adequate at this time.

### Parking:

Petitioner's plan for the West Campus parking facility would provide a total of 499 surface parking spaces, with drive aisles parallel to the proposed POBs and the parking spaces perpendicular to the buildings, as can be seen on the Rendered Site Plan (Exhibit 34):



The proposed size and layout for the West Campus parking facility caused Technical Staff some consternation. As to size, Technical Staff believes that the number of parking spaces required is 600, based on their conclusion that physicians' offices which are part of a hospital campus must provide 5 spaces for every 1,000 square feet of office space. The combined floor area of the two POBs will be 120,000 square feet, and the number of spaces would be calculated as 5 X 120, yielding a need for 600 parking spaces. Exhibit 28, pp. 14-15. Staff obtained this standard from a provision in Zoning Ordinance §59-E-3.7, which specifies:

***Office, professional, nonresidential.*** Five parking spaces for each 1,000 square feet of gross floor area used by medical practitioners and 2.5 parking spaces for each 1,000 square feet of gross floor area used by all other professionals. The gross floor area calculation shall exclude storage area, and the attic and cellar areas of the building if not occupied by professional personnel.

Petitioner, however, argues that Staff applied the wrong provision of Zoning Ordinance §59-E-3.7, and should have used the provision that governs "Office, medical practitioner," which specifies:

***Office, medical practitioner's.*** Not less than 4 parking spaces for each practitioner occupying or using such office.

Based on its experience with POBs on the main campus, Petitioner estimates that the occupancy rate of the two physician office buildings will be a maximum of one practitioner per 1,000 square feet of office space, or a total of 120 practitioners, thereby requiring a total of 480 parking spaces (4 X 120 = 480), and 499 spaces are planned. Tr. 72-73 and Exhibit 22(b).

The Hearing Examiner's review of the relevant sections of the Zoning Ordinance leads him to conclude that Technical Staff could justifiably invoke the "5 spaces per 1,000 square feet" standard based upon the "Medical or dental clinic" provision of §59-E-3.7, but not based upon the particular provision in §59-E-3.7 (*i.e.*, Office, professional, nonresidential) they inexplicably relied upon.

Exhibit 28, pp. 13-15 and 24-26. The Code's definitions of "Office, professional, nonresidential," and "Medical or dental clinic" set forth below, lead the Hearing Examiner to conclude that Staff's

interpretation of the “Office, professional, nonresidential” provisions of §59-A-2.1 and §59-E-3.7 is not correct. Zoning Ordinance §59-A-2.1 defines “Office, professional, nonresidential” as follows:

***Office, professional, nonresidential:*** *An existing single-family structure used for professional office purposes by any member or members of a recognized profession, such as, but not limited to, doctors, lawyers, architects, accountants, engineers and veterinarians, but not including medical, dental or veterinarian clinics or inpatient treatment facilities. Professional offices do not include general business offices, such as the offices of insurance companies, trade associations, manufacturing companies, investment concerns, banks or real estate companies.* [Underlining added.]

A medical or dental clinic is defined as:

***Medical or dental clinic:*** *Any building or group of buildings occupied by 3 or more medical practitioners and related services for the purpose of providing health services to people on an outpatient basis.*

As indicated by the underlining in the definition of “Office, professional, nonresidential,” that section applies only to “[a]n existing single-family structure,” and explicitly excludes “medical, dental or veterinarian clinics.” The proposed POBs are clearly not “existing single-family structure[s],” and they appear to fit within the definition of “Medical or dental clinic.” Thus, on both counts, the provision of Zoning Ordinance §59-E-3.7 referencing “Office, professional, nonresidential,” which Staff applied in this case to come up with the five-space per 1,000 square-foot standard, is actually not applicable to the subject case.

Nevertheless, the provision of §59-E-3.7 governing “Office, medical practitioner’s,” which is relied upon by Petitioner in arguing for a standard of “four parking spaces for each practitioner” is not the only possible alternative to the provision relied upon by Technical Staff and rejected by the Hearing Examiner. The provision of §59-E-3.7 which is perhaps most closely analogous to the proposed development here is the one covering “Medical or dental clinic.” As mentioned above, a “Medical or dental clinic” is defined in §59-A-2.1 of the Code as “*Any building or group of buildings occupied by 3 or more medical practitioners and related services for the purpose of providing health services to*

*people on an outpatient basis.”* That definition seems to fit this case (although one could reasonably argue, as Petitioner does, that “Office, medical practitioner’s,” also describes this situation).<sup>6</sup> Required parking for a medical or dental clinic is prescribed in §59-E-3.7, as follows:

***Medical or dental clinic.*** *Five parking spaces for each 1,000 square feet of the gross floor area of the building.*

Thus, this provision justifies Technical Staff’s “bottom line” – that five parking spaces are required for each 1,000 square feet of floor space. Although Technical Staff relied upon the wrong provision of §59-E-3.7, they came to a conclusion that is supported by the Zoning Ordinance in determining that developments such as this one, in general, should be held to the five-parking spaces per 1,000 square-foot standard.

Moreover, Technical Staff’s observed that, “With respect to physician office buildings that are part of a hospital campus, staff has consistently applied the standard of 5 spaces per 1,000 square feet,” Exhibit 28, p.15. The Planning Board and Technical Staff are entitled to some deference in their interpretation of the statute which they administer, *Watkins v. Secretary, Dept. of Public Safety and Correctional Services*, 377 Md. 34, 46, 831 A.2d 1079, 1086 (2003), and the Hearing Examiner therefore recommends that the “five-parking spaces per 1,000 square-foot” standard be applied here as the general rule, subject to Petitioner’s request for a waiver which is discussed in the next section of this report.

Technical Staff also had a problem with the proposed layout of the parking facility, with its long drive aisles parallel to the proposed POBs. Staff characterized the long drive aisles as “inefficient” and an impediment to on-site circulation. Staff would prefer the drive aisles to be perpendicular to the POBs.

---

<sup>6</sup> Petitioner recognized this ambiguity in the Zoning Ordinance in its request for a waiver of the parking requirements (Exhibit 24(a), p. 3).



Petitioner's land planner responded to Staff's concerns in an April 20, 2009 letter to Technical Staff (Exhibit 22(d)). As stated by Mr. Landfair,

. . . staff has suggested that the drive aisles be perpendicular to the buildings to provide improved pedestrian access to the buildings. Ordinarily this arrangement can work well, however, because of the depth of the property we believe it would result in an inefficient layout with fewer parking spaces. More importantly, it could also lead to increased conflict between pedestrians and vehicles because of the greater number of intersecting drive aisles required. In addition, the landscaped medians, if any were provided, would be perpendicular to the buildings and adjoining residences and as a result would be less effective in screening the parking facility and buildings from neighboring properties.

Mr. Landfair reiterated these arguments at the hearing, and also emphasized his point that, with Petitioner's layout, there are greater opportunities for landscaping and screening. If the drive aisles are perpendicular to the buildings, the medians, though landscaped, leave the view into those drive aisles, including the view of headlights, more open from adjoining properties, whereas with Petitioner's layout, being parallel to the buildings, the landscaping within the medians provides greater screening, and thus greater mitigation of the view of the parking spaces from the adjoining properties. His argument can be better understood by examining the Rendered Site Plan reproduced on page 32 of this report, which shows how the shade trees along the parallel drive aisles help to screen the parking lot and new POBs from the townhouses immediately to the west of the subject site. According to Mr. Landfair, the straightforwardness of the layout will also enable people to easily find their way, and to orient themselves around the site. So, both from an operational perspective and from a concern about how the site would look to the surrounding area, Mr. Landfair opined that Petitioner's approach was a better one to take. Tr. 91-92, 105.

Although the best parking lot layout is obviously subject to debate, Transportation Staff ultimately concluded that while "site access, parking and circulation could be further improved, . . .

the subject plan meets the minimum required standard for staff approval.” Page 8 of the Transportation Staff Memorandum of May 12, 2009, attached to Technical Staff report (Exhibit 28).

The Hearing Examiner need not decide which parking layout would be superior. Good points were made on both sides, but since Technical Staff and the Planning Board ultimately recommended approval of Petitioner’s parking lot plan, there is no basis to find it unacceptable.

**Parking Waiver:**

Pursuant to Zoning Ordinance §59-E-4.5, Petitioner has requested a waiver reducing the requirement that it provide 600 parking spaces on the West Campus to 499 parking spaces. Exhibit 24(a). Section 59-E-4.5 authorizes the Board to waive any requirement in Article 59-E not necessary to accomplish the prescribed objectives for a parking facility. In support of the waiver request, Petitioner argues that the lower rate of 4 spaces per 1,000 square feet is the appropriate ratio for physicians office buildings on a hospital campus and is consistent with type of use both on the MGH East campus and in other similar situations.

Michael Abrams, who has been involved for about 10 years in the ownership and management of the East Campus POBs, as well as other real estate management, testified that his experience in 10 different properties is that a parking ratio in the 4 per 1,000 square-foot range is more than appropriate for this type of building. The existing buildings on the East Campus are parked at about a 3 per thousand ratio, which is tight given the amount of traffic that the buildings have. He has never built anything above 4.25 per 1,000 as a parking ratio. In particular, he believes that POBs in a hospital setting could be parked on the lower range because most of those physicians are specialists who see fewer patients in the time that they are there. Plus, the specialists, in many cases, will have multiple offices, so a physician may be at this location two or three days a week and then at another location the other days. Given the hospital setting, a parking ratio of 4 per 1,000 is appropriate for this type of use. Tr. 108-109.

Petitioner also provided a chart summarizing the parking ratios of various existing physician office buildings located within the County. It is reproduced below (Exhibit 24(a), pp. 2-3):

<b>Property Address / Name</b>	<b>Year Built</b>	<b>Parking Rate</b> (spaces / building SF)
9715 Medical Center Dr. – Medical Plaza I <sup>1</sup>	1980	4 / 1000
9711 Medical Center Dr. – Medical Plaza II <sup>1</sup>	1986	4 / 1000
15001 Shady Grove Rd. – Shady Grove Professional Center	May 1999	4 / 1000
9850 Key West Ave. – Shady Grove Medical Village II	August 1999	3.6 / 1000
15005 Shady Grove Rd. – Shady Grove Professional Center II	June 2002	3.3 / 1000
20500 Seneca Meadows Pky – Suburban Wellness Center	October 2002	4 / 1000
14955 Shady Grove Rd. – Fallsgrove Village Office Center	December 2002	3.75 / 1000
19735 Germantown Rd. – Building 1 <sup>2</sup>	September 2003	3.7 / 1000
1400 Forest Glen Rd. – Campus @ Holy Cross <sup>3</sup>	December 2003	3.5 / 1000
Southeast quadrant of Flower Ave. and Arliss Street – Long Branch Village Center	Not yet constructed; Planning Board approval – March 2006	3.4 / 1000

<sup>1</sup> Within walking distance to Shady Grove Adventist Hospital.

<sup>2</sup> Adjacent to Adventist Emergency Treatment Center.

<sup>3</sup> Connected to Holy Cross Hospital.

It appears from this chart that a parking ratio of 4/1000 and less is often used for physician office buildings, and from Mr. Abrams testimony, that such a ratio should be adequate in this case. In addition, Petitioner argues that a waiver is justified, in part, because the proposed bus transit center may help to offset the need for parking on the site. Exhibit 24(a), pp. 4-5 and Tr. 71-74. Mr. Hedberg testified that it is very difficult to estimate how many trips will be actually reduced at this particular site by the transit center because a transit center is a system-wide improvement. He believes it will reduce trips (and therefore presumably demand for parking), but he could not project a number. Tr. 203-205.

Finally, Petitioner notes that “the Hospital’s long-range development plans for the West Campus includes a future multi-level parking structure that will more than adequately accommodate the parking needs of the site at a potentially higher parking rate, but which would result in less environmental impact and impervious area than additional surface parking.” Exhibit 24(a), p. 5.

Technical Staff evaluated whether Petitioner’s proposed parking facility would comply with Section 59-E-4.5, which entailed an analysis of whether the facility would meet the objectives prescribed for a parking facility in §§ 59-E-4.2 and 4.3. Staff found (Exhibit 28, pp. 24-26):

The proposed parking facility is substantially distanced from adjoining residential properties. With the recommended conditions, the proposed plan offers adequate protection to the health, safety and welfare of those who use the parking facility and does not adversely affect any adjoining land or public road that abuts the parking facility. With regard to lighting, staff found the lighting plan adequately and efficiently covers the main vehicular access to the site, as well as the parking and loading areas, in order to create a safe vehicular and pedestrian environment.

\* \* \*

As previously discussed, staff has identified long-term concerns and issues regarding the overall internal circulation and access. The general consensus is that specific to this application, the minimum requirements are met and that with the proposed conditions of approval, the Hospital can function adequately in terms of parking, on site circulation, and access.

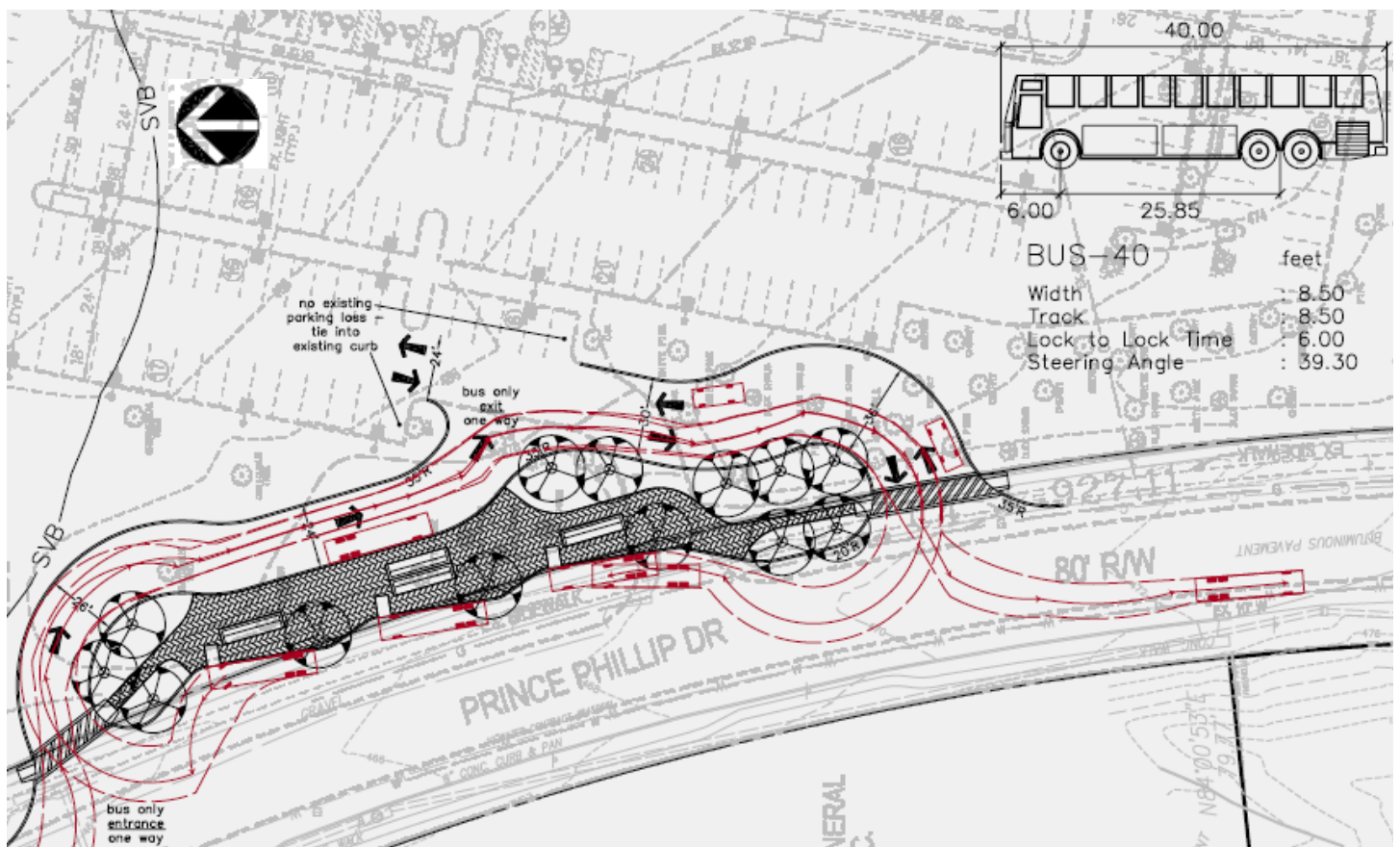
Technical Staff therefore concluded (Exhibit 28, p. 18):

While the deficiency represents a sizable reduction in the number of spaces, the applicant's reasoning in support of the waiver appears to be sound. Staff, therefore, supports the waiver. [Emphasis added.]

Based on this record, the Hearing Examiner concludes that the Board should grant a parking waiver reducing the required number of parking spaces on the West Campus from 600 to 499.<sup>7</sup>

#### **4. The New Transit Center:**

Petitioner proposed a bus transit center on the East Campus that can accommodate four bus bays, three along Prince Philip Drive and one on the internal drive accessing the parking lot, as shown in the Transit Center Plan (Exhibit 37):



<sup>7</sup> The "lay-by" spaces are not factored into the parking calculation. They are provided as a matter of convenience to allow visitors, primarily, to pull up to the main entrance temporarily. There probably would be a time limit for their use, perhaps 15 minutes. Immediately adjacent to the lay-by spaces will be the accessible parking spaces, and there are nine proposed, per the Code. Tr. 73-74.

Although this modification petition concerns mostly the West Campus, the bus transit center would be located on the East Campus along Prince Philip Drive, in a primarily grassy area separating an existing parking lot from Prince Philip Drive, as shown above. The intent is to replace an existing facility that is located just to the north of the existing parking garage on the East Campus. It will provide greater opportunities for passenger transfers and bus layovers. Tr. 80-81.

The Olney Master Plan (p.104) recommends expanded transit facilities for the Olney area and discusses placing such a facility on the MGH Campus. According to Mr. Landfair, the East Campus would be the logical location because it would be more central and more convenient for the majority of the people that would use the facility, those people visiting the main hospital complex on the East Campus. Tr. 79-82. The plan was well received by Park and Planning Transportation Staff as well as County DOT and WMATA. *See* Attachments to Exhibit 28. The expectation is that at preliminary plan, the design may be refined and additional details will be provided, including landscaping. Michael Goodman, Petitioner's civil engineer, testified that the sight distances for the transit center's new entrance are adequate. Tr. 130.

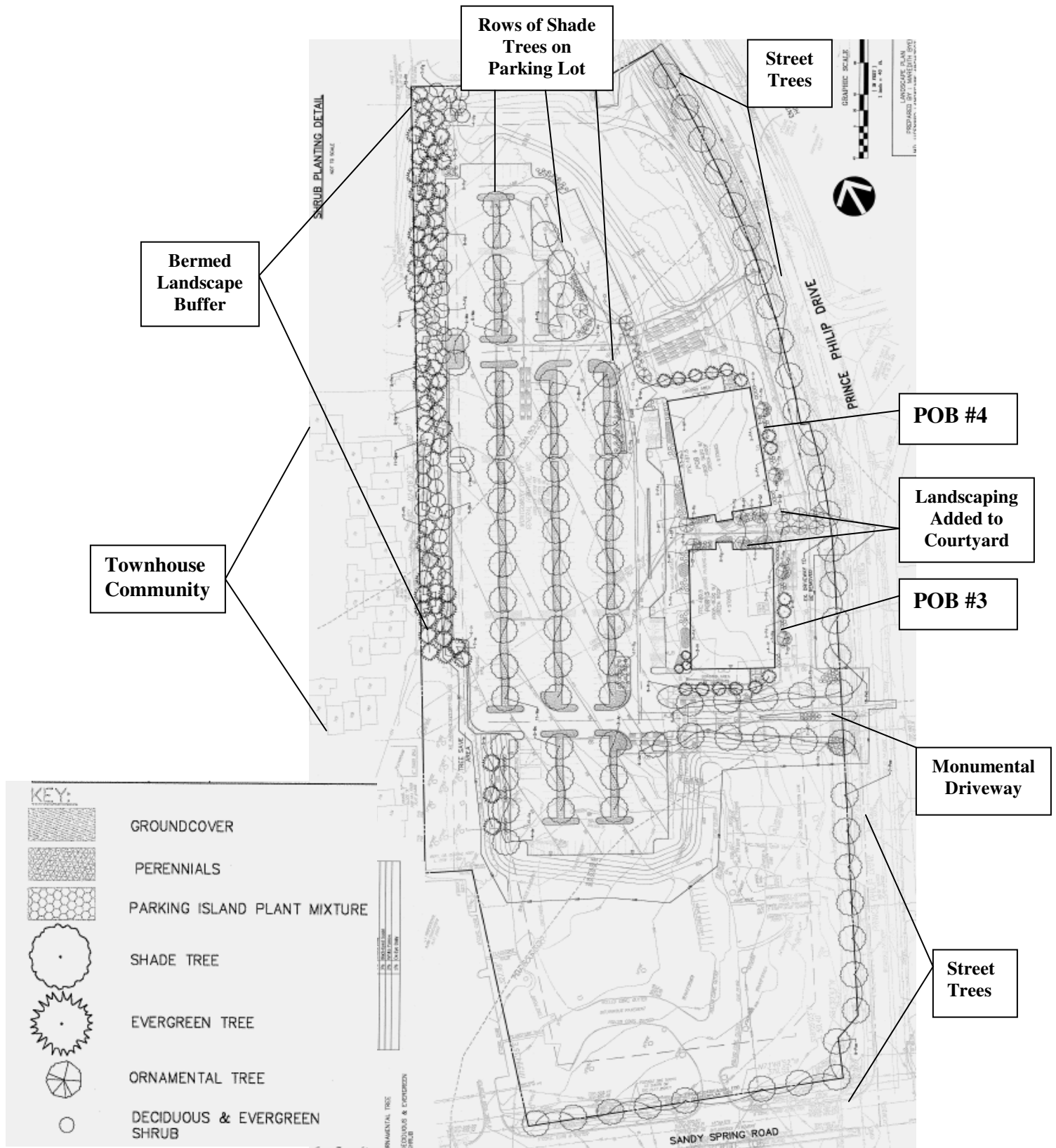
The Hearing Examiner finds that all the evidence of record supports the plan for construction of a bus transit center on the East Campus, as proposed.

#### **5. Landscaping, Lighting and Signage:**

##### **Landscaping:**

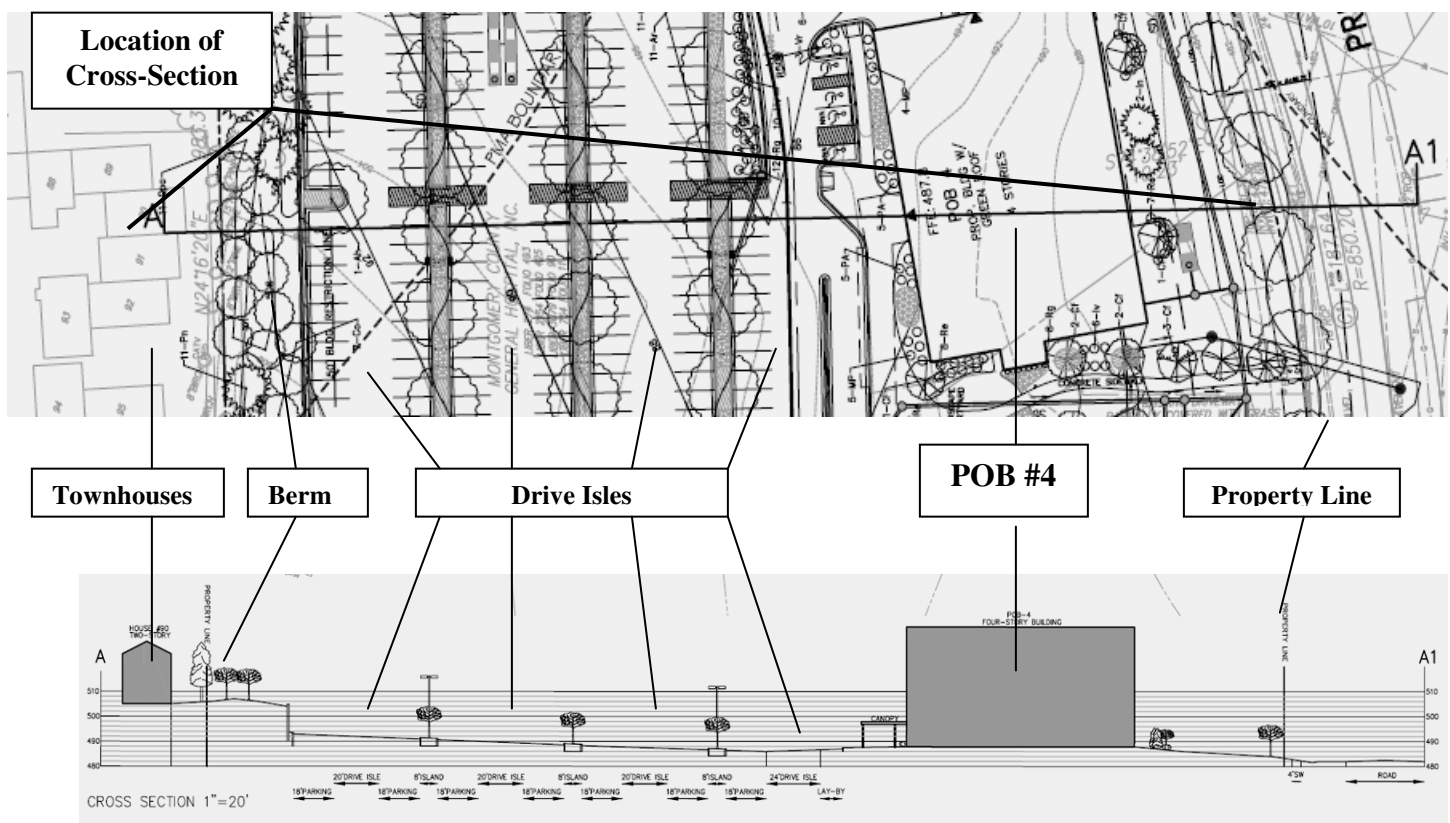
Montgomery General Hospital already has significant landscaping. Because there is a townhouse community immediately to the west of the subject site, and some of those homes would be within 20 feet of the property boundary, a significant amount of new landscaping is needed to adequately screen the new POBs and its new parking lot. A landscaped buffer will be established along the west side, which at a minimum, will be 40 feet in depth. On it will be an eight-to-ten-foot-tall berm, landscaped with deciduous and evergreen trees. Some of the existing forested area will also be

retained to screen and mitigate the view of the parking facility from the neighboring townhouse community. Tr. 70-71, 102-103. The new surface parking facility will be landscaped with shade trees as shown below in Exhibit 81(a), the revised “Overall-Planting Plan” (*i.e.*, revised Landscape Plan):



The Landscape Plan was revised consistent with Technical Staff's recommendations, by adding additional landscaping, primarily in the area of the courtyard between the two buildings as well as along the sidewalk that leads from that courtyard down to a sidewalk along Prince Philip Drive. Petitioner also added additional plantings in the form of evergreen trees, ornamental trees and shrubs to the rear side of the buildings (*i.e.*, the side of the buildings that face out onto Prince Philip Drive), to accent those buildings. Petitioner has committed to providing street trees along the roadway, but their precise location may be subject to change at preliminary plan. Tr. 78-79.

The effectiveness of the landscaped berm in screening the townhouse community from the new POBs and the new parking facility is demonstrated by the Site Cross-Section (Exhibit 71(f)):

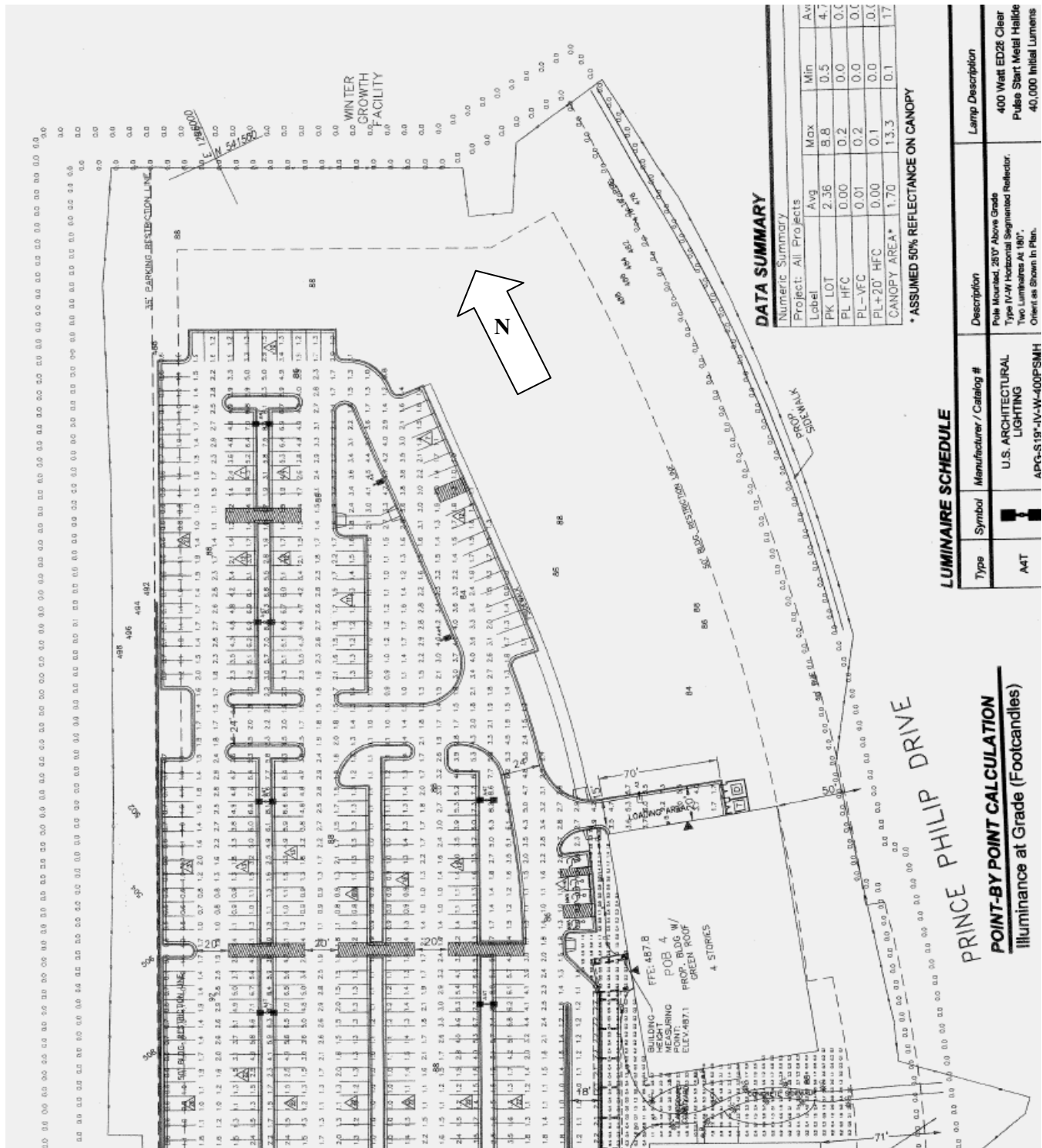


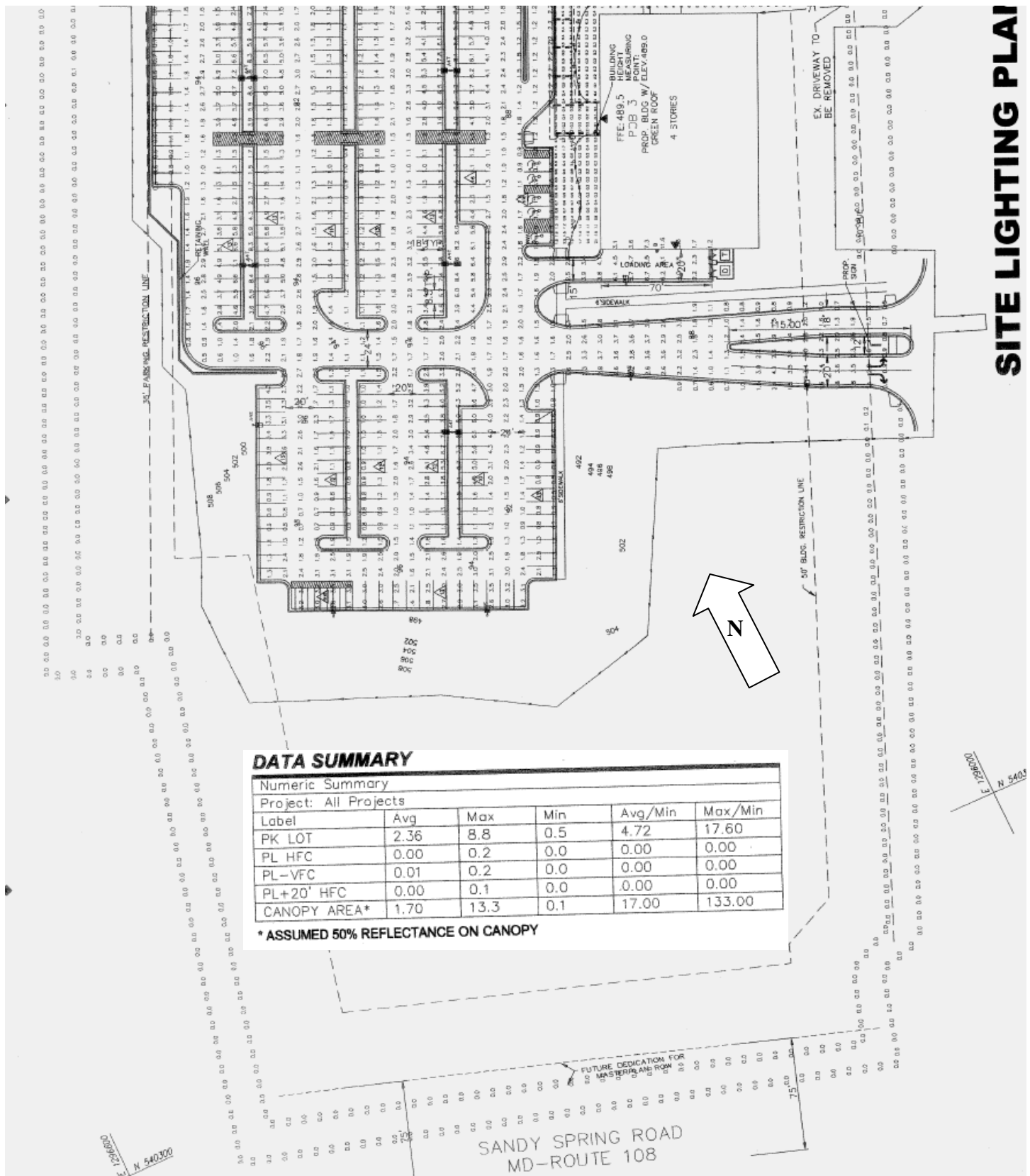
As can be seen from the Cross-Section, the level of the parking lot and new POBs will be well below that of the townhouses, and the landscaping on the berm should provide effective screening of these new facilities.












**Lighting:**

Proposed lighting on the site is shown in the revised lighting plan with photometrics (Exhibit 60(a)), which has been divided into two halves to make the details more visible:





**LUMINAIRE SCHEDULE**

Type	Symbol	Manufacturer / Catalog #	Description	Lamp Description	LLF	# of Type
A4T		U.S. ARCHITECTURAL LIGHTING APG-S19*-IV-W-400PSMH	Pole Mounted, 25'0" Above Grade Type IV-W Horizontal Segmented Reflector. Two Luminaires At 180". Orient as Shown In Plan.	400 Watt ED28 Clear Pulse Start Metal Halide 40,000 Initial Lumens	0.77	11 Tot.
A4S		U.S. ARCHITECTURAL LIGHTING APG-S19*-IV-W-400PSMH-HS	Pole Mounted, 25'0" Above Grade Type IV-W Horizontal Segmented Reflector. Internal House Side Shield. Single Luminaire Pole. Orient as Shown In Plan.	400 Watt ED28 Clear Pulse Start Metal Halide 40,000 Initial Lumens	0.77	5 Tot.
A2		U.S. ARCHITECTURAL LIGHTING APG-S19*-II-400PSMH	Pole Mounted, 25'0" Above Grade Type II Horizontal Segmented Reflector. Single Luminaire Pole. Orient as Shown In Plan.	400 Watt ED28 Clear Pulse Start Metal Halide 40,000 Initial Lumens	0.77	2 Tot.
A4		U.S. ARCHITECTURAL LIGHTING APG-S19*-IV-W-400PSMH	Pole Mounted, 25'0" Above Grade Type IV-W Horizontal Segmented Reflector. Single Luminaire Pole. Orient as Shown In Plan.	400 Watt ED28 Clear Pulse Start Metal Halide 40,000 Initial Lumens	0.77	2 Tot.
E1		U.S. ARCHITECTURAL LIGHTING LASER-FN-50MH	Wall Mounted At 8'0" Above Grade. Flood Up Distribution.	50 Watt ED17 Clear Metal Halide 3,400 Initial Lumens	0.77	32 Tot.
E2		U.S. ARCHITECTURAL LIGHTING LASER-NF-50MH	Wall Mounted At 14'0" Above Grade. Flood Down Distribution.	50 Watt ED17 Clear Metal Halide 3,400 Initial Lumens	0.77	14 Tot.
D		U.S. ARCHITECTURAL LIGHTING 3082-13PL	Wall Mounted At 2'0" Above Grade. Clear Tempered Glass Lens. Specular Reflector. Orient As Shown In Plan.	13 Watt Compact Fluorescent 850 Initial Lumens	0.9	21 Tot.
C		U.S. ARCHITECTURAL LIGHTING BDAR5-AR-50MH	Light Center At 3'0" Above Grade. Fresnel Lens.	50 Watt ED17 Clear Metal Halide 3,400 Initial Lumens	0.77	12 Tot.
B		U.S. ARCHITECTURAL LIGHTING MLX-T-HR-IV-100MH	Wall Mounted At 10'0" Above Grade. Type IV Horizontal Segmented Reflector. Orient As Shown In Plan.	100 Watt ED17 Clear Metal Halide 8,500 Initial Lumens	0.77	4 Tot.

\* FIXTURE HAS 0% TOTAL UPLIGHT

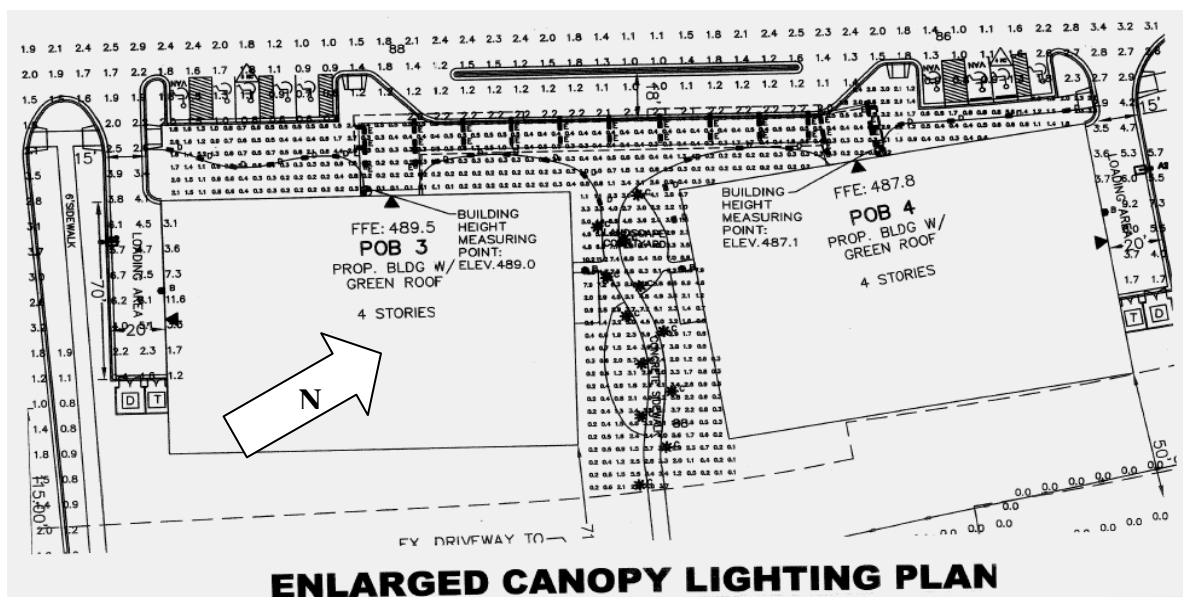
**NOTES:**

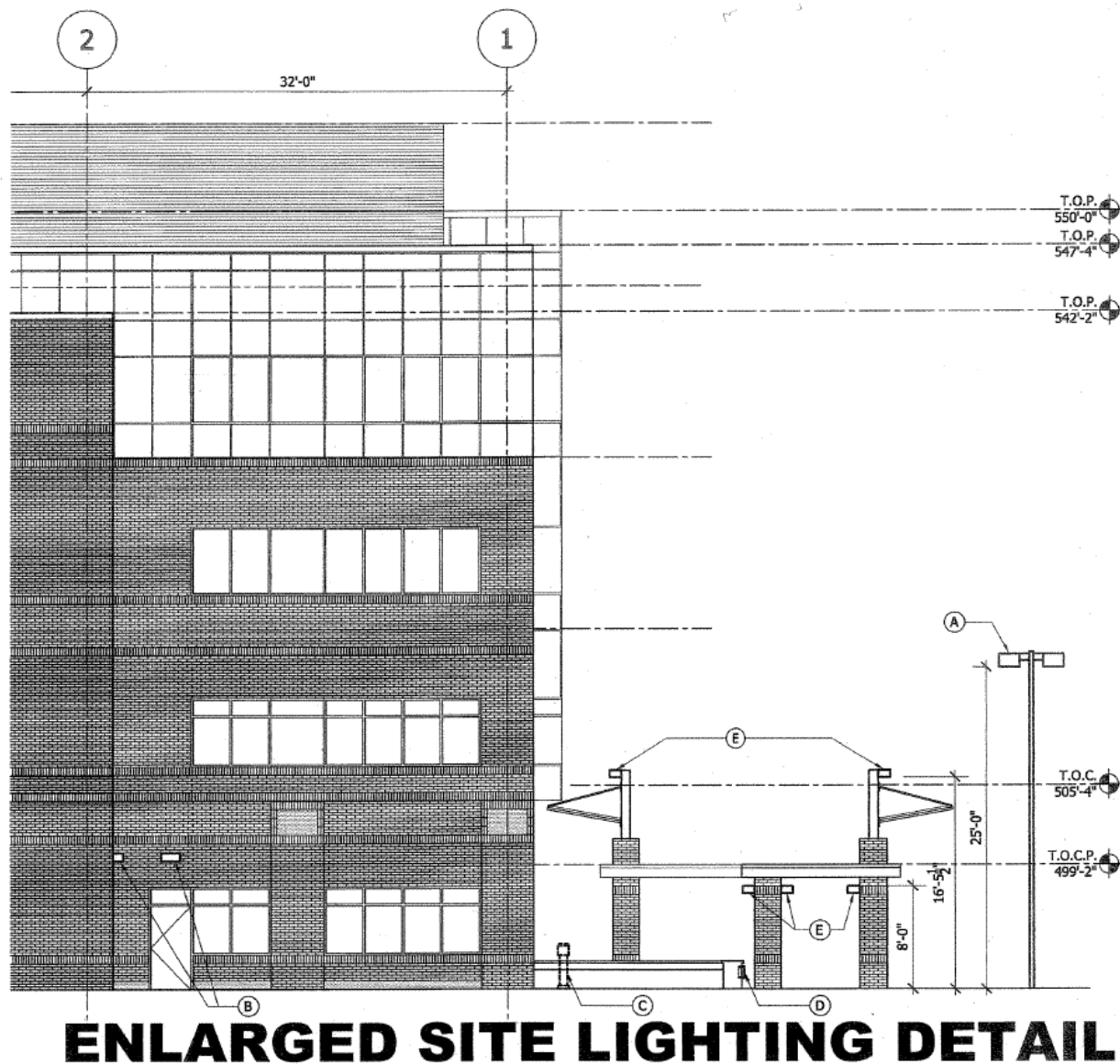
Zoning Ordinance §59-G-1.23(h) requires that lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property, and that lighting levels along the side and rear lot lines not exceed 0.1 foot candles. As can be seen on the above photometric study, the proposed lighting would comply with these requirements. Petitioner's architect, Jason Beshore, noted that, because the site is in a residential district, Petitioner has kept the lighting as low as possible. All of the lighting fixtures are down-lights and are LEED qualified lighting.

On the parking lot, the light fixtures (which are labeled type “A”) are mounted on 25-foot poles. Each light is about a foot-and-a-half lower than that because of the size of the fixture. There are clean cut-off fixtures with full metal surround sides, and the light only shines down. Tr. 172-173. Petitioner used a 25-foot light dual head fixture throughout the parking lot area to minimize the number of lights needed. Tr. 180-181. Technical Staff found that, “The lighting plan adequately and efficiently covers the main vehicular access to the site, as well as the parking and loading areas, in order to create a safe vehicular and pedestrian environment.” Exhibit 28, p. 16.

Nevertheless, People’s Counsel, Martin Klauber, argued that there is no need to light the whole parking lot all night, given the fact that it abuts the rear lots of existing townhouse residences. Instead, Petitioner could light part of the lot near the building for physicians who stay late, and then at night, turn off the ones at least on the western end. Tr. 228-229. Although Mr. Beshore testified that the parking lot should remain illuminated at night for safety and security (Tr. 183-184), Petitioner agreed to a provision in its Statement of Operations which would put the row of lights closest to the western property line (*i.e.*, closest to the townhouses) on a timer to turn them off after 9:00 p.m. Exhibit 85(a), p. 9. The Hearing Examiner finds this to be a sensible solution to the point raised by Mr. Klauber.

Technical Staff also suggested that pedestrian-scaled lighting be added to the courtyard area between the POBs. Petitioner did so, as shown in the following lighting detail plans (Ex. 60(a) & (b)):





The Enlarged Site Lighting Detail labels light fixtures “A, B, C, D, and E,” and shows where those light fixtures will be placed. Type A lighting is the down-lighting mounted on 25 foot poles for the parking lot, as previously mentioned. For the landscaped courtyard area, light fixture type C, a bollard, is used. It is 42 inches in height and provides light at the walking level, illuminating a small area. It is thus scaled for pedestrians. Tr. 159-172. The D fixture will be used on the retaining wall to provide some light at the seating areas. The B fixture is used at the doors, as required by Code, to

provide lighting of the egress points of the building. Light type E is a down-light fixture that provides light for cars pulling up under the canopy. Tr. 174.

Based on the evidence of record, the Hearing Examiner finds that the revised lighting plans provide adequate lighting for the site, without light spillage into adjacent residential areas.

Cut sheets for the light fixtures (Exhibits 60(b) and (c)) are reproduced below:

## LIGHT TYPE - A

**[400 WATT MAX.]**

**APOGEE-S19**

**SIDE VIEW**

**FRONT VIEW**

**TOP VIEW**

E.P.A. - 2.28

**SPECIFICATIONS**

**HOUSING:** ONE PIECE HEAVY GAUGE DIE FORMED ALUMINUM CONSTRUCTION. HOUSING FURNISHED WITH DECORATIVE REVEALS TO PROVIDE CONTEMPORARY AESTHETICS. HOUSING REVEALS CAN BE SUPPLIED WITH ACCENT COLORS TO SIGNATURE INSTALLATION.

**LENS ASSEMBLY:** ONE PIECE HINDED HEAVY GAUGE DIE FORMED ALUMINUM DOOR FRAME SURROUNDS 3/16" CLEAR TEMPERED GLASS LENS. GLASS IS SEALED TO DOOR WITH HIGH TEMPERATURE SILICONE SEAL. TWO CAPTIVE THUMB SCREWS DISENGAGE LENS ASSEMBLY FROM HOUSING WITHOUT THE USE OF TOOLS.

**OPTICS:** COMPUTER DESIGNED ONE PIECE SPECULAR SEGMENTED REFLECTOR COMBINES WITH LENS TO PRODUCE A HIGHLY EFFICIENT, SHARP CUTOFF OR WIDE ANGLE LIGHT DISTRIBUTION. OPTICAL ASSEMBLY IS REMOVABLE WITHOUT USE OF TOOLS FOR ACCESS TO BALLAST TRAY. OPTICS ARE FIELD ROTATABLE IN 90° INCREMENTS.

**GASKETING:** CLOSED CELL EPDM GASKETING COMPRESSED BETWEEN DOOR AND HOUSING SEALS OPTICAL CHAMBER.

**LAMP HOLDER:** MODUL BASE PORCELAIN. LAMP HOLDER EQUIPPED WITH FACTORY INSTALLED QUICK DISCONNECT PLUG.

**LAMP:** (BY OTHERS)

**BALLAST:** ELECTRICAL COMPONENTS ARE FACTORY PREWIRED WITH QUICK-DISCONNECT PLUGS AND ARE MOUNTED TO A REMOVABLE BALLAST TRAY. ENTIRE BALLAST ASSEMBLY IS REMOVABLE FROM HOUSING WITHOUT USE OF TOOLS.

**ARM:** 3/8"x3/8" HEAVY WALL EXTRUDED ALUMINUM. ARM IS DESIGNED WITH HORIZONTAL RIGS TO COMPLIMENT STYLING ON HOUSING.

**HARDWARE:** ALL EXPOSED HARDWARE IS STAINLESS STEEL.

**FINISH:** POLYESTER POWDER COAT-STATE OF THE ART 20 PSI PRESSURE POWER WASH AT 140° TEMPERATURE INCORPORATES FOUR STEP IRON PHOSPHATE PROCESS TO CLEANSE AND PRETREAT THE METAL SURFACE FOR MAXIMUM PAINT ADHESION. ELECTROSTATICALLY APPLIED TEXTURED POLYESTER POWDER TOP COAT IS BAKED AT 400° TEMPERATURE FOR MAXIMUM HARDNESS AND EXTERIOR DURABILITY.

UL Listed for use in wet locations

**TYPICAL SQUARE POLE TEMPLATE**

**TYPICAL ROUND POLE TEMPLATE**

**WALL MOUNT**

**LAMP SIZE: 150 - 400 WATT**

**RECTILINEAR HEAVY GAUGE ALUMINUM HOUSING.**

**FIELD ROTATABLE OPTICS.**

**SHARP CUTOFF HORIZONTAL AND WIDE ANGLE VERTICAL LAMP OPTICS.**

**TOOLLESS LAMP AND BALLAST ACCESS.**

**TOOLLESS REMOVABLE BALLAST TRAY PROVIDED WITH QUICK DISCONNECT PLUG FOR EASY SERVICING.**

**WALL PLATE**


**ORDERING INFORMATION**

MODEL NO.	OPTICS	WATTAGE	TYPE	VOLTAGE	MOUNTING	FINISH	OPTIONS
<b>APOGEE-S19</b>	<b>HORIZONTAL LAMP</b>	<b>WATTAGE</b>	<b>TYPE</b>	<b>VOLTAGE</b>	<b>ARM MOUNT</b>	<b>FINISH</b>	<b>OPTIONS</b>
<b>APOGEE-S19</b>	<input type="checkbox"/> TYPE II HR-II	<input type="checkbox"/> 400	<input type="checkbox"/> MHP	<input type="checkbox"/> 120	<input type="checkbox"/> 1	<input type="checkbox"/> DARK BRONZE DBM	<input type="checkbox"/> CLEAR TEMPERED CONVEX GLASS LENS ..... CCG
	<input type="checkbox"/> TYPE III HR-III	<input type="checkbox"/> 250	<input type="checkbox"/> MH	<input type="checkbox"/> 208	<input type="checkbox"/> STRAIGHT LIGHTING ARM MOUNT	<input type="checkbox"/> MEDIUM BRONZE DBM	<input type="checkbox"/> CLEAR POLYCARBONATE DIFFUSER ..... LEX
	<input type="checkbox"/> TYPE IV HR-IV-W	<input type="checkbox"/> 200	<input type="checkbox"/> MHPS	<input type="checkbox"/> 240	<input type="checkbox"/> BSY23	<input type="checkbox"/> BLACK BKM	<input type="checkbox"/> HOUSE SIDE SHIELD ..... HS
	<input type="checkbox"/> TYPE V HR-V-SQ	<input type="checkbox"/> 175	<input type="checkbox"/> MV	<input type="checkbox"/> 277	<input type="checkbox"/> ADJUSTABLE KNOCKLE	<input type="checkbox"/> WHITE WTM	<input type="checkbox"/> PHOTO CELL + VOLTAGE (EXAMPLE: PC120V) ..... PC+V
	<input type="checkbox"/> TYPE VI HR-VI-HSC	<input type="checkbox"/> 150	<input type="checkbox"/> MT	<input type="checkbox"/> 480	<input type="checkbox"/> UNKLE25	<input type="checkbox"/> SILVER SLM	<input type="checkbox"/> TWIST LOCK PHOTO CELL + VOLTAGE (EXAMPLE: TPC120V) ..... TPC+V
	<b>VERTICAL LAMP</b>			<b>MH and MHPS</b>	<b>WALL MOUNT</b>		
	<input type="checkbox"/> TYPE VII VR-VII			<input type="checkbox"/> 175 W. MHPS AVAILABLE FOR VERTICAL LAMP ONLY	<input type="checkbox"/> UNKLE27		
	<input type="checkbox"/> TYPE VIII VR-VIII				<input type="checkbox"/> UNKLE28		
	<input type="checkbox"/> TYPE IX VR-IX				<input type="checkbox"/> UNKLE29		
	<input type="checkbox"/> TYPE X VR-X				<input type="checkbox"/> UNKLE30		


**USA ARCHITECTURAL**

100 WEST KERRY BLVD. SUITE 100  
FARMERSVILLE, OHIO 43024  
TEL: 614-291-1000  
FAX: 614-291-1001  
WWW.USARCH.COM


# LIGHT TYPE - B



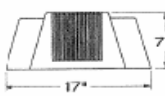
HR FULL-CUTOFF OPTICS



BEAM UP OPTION-BU

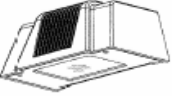


ACCENT/FLOOD UP OPTION-AU



WALL MOUNTING BRACKET

LAMP SIZE: 175 WATT MAX



EPA-0.78

PRECISE CAST ALUMINUM HOUSING AND DOOR FRAME.

OPTICAL SYSTEM ENCLOSED IN IMPACT RESISTANT TEMPERED GLASS LENS.

THREE LIGHT DISTRIBUTIONS AVAILABLE.


FULL-CUTOFF OPTICS FOR DARK-SKY COMPLIANCE.

BEAM OR ACCENT UP LIGHTING OPTIONS.

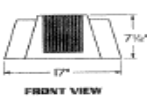
ORDERING INFORMATION					
MODEL NO.	OPTICS	WATTAGE	TYPE	VOLTAGE	FINISH
M L X T	HID OPTICS				
	TYPE II HR-II (symmetrical)	<input type="checkbox"/> 175	<input type="checkbox"/> HPS	<input type="checkbox"/> 120	<input type="checkbox"/> DARK BRONZE DBM
		<input type="checkbox"/> 150	<input type="checkbox"/> MH	<input type="checkbox"/> 208	<input type="checkbox"/> MEDIUM BRONZE MBM
		<input type="checkbox"/> 100	<input type="checkbox"/> PSBH	<input type="checkbox"/> 240	<input type="checkbox"/> BLACK BKM
		<input type="checkbox"/> 85	<input type="checkbox"/> BSRH	<input type="checkbox"/> 277	<input type="checkbox"/> WHITE WTM
		<input type="checkbox"/> 70	<input type="checkbox"/> CFL	<input type="checkbox"/> 180	<input type="checkbox"/> SILVER SLM
		<input type="checkbox"/> 60		<input type="checkbox"/> MT	
		<input type="checkbox"/> 42		<input type="checkbox"/> OTHER (SPECIFY)	
		<input type="checkbox"/> 35			
		<input type="checkbox"/> OTHER (SPECIFY)			
<p>USE MEDIUM BASE LAMP ONLY FOR MR, PHS, &amp; HPS.</p> <p>SINGLE ENDOSUP LAMPS (EEMS) ARE 0.15 BASE ONLY.</p> <p>SEE PAGE FOR ADDITIONAL OPTIONS.</p>					

## MURALUX-T

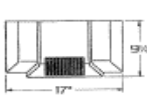
(175 WATT MAX.)



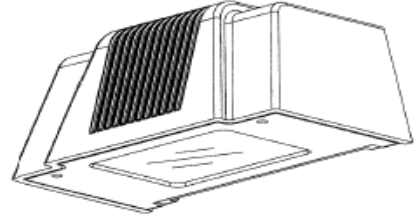
SIDE VIEW



FRONT VIEW



TOP VIEW



EPA-0.78

### SPECIFICATIONS

**HOUSING:** PRECISE CAST ALUMINUM CONSTRUCTION. RIBBED HOUSING DETAILS AND FINED BACKPLATE DISSIPATE HEAT FROM LUMINAIRE INTERIOR TO INCREASE BOTH BALLAST AND LAMP LIFE.

**LENS ASSY:** PRECISE, ONE-PIECE CAST ALUMINUM CONSTRUCTION. DOOR FRAME ENCASES 3/16" CLEAR TEMPERED GLASS LENS SEALED TO DOOR FRAME WITH HIGH TEMPERATURE EPDM GASKET TO COMPLETELY SEAL DOOR FRAME FROM CONTAMINANTS.

**OPTICS:** COMPUTER DESIGNED PRECISION SPECULAR SEGMENTED OPTICS PROVIDE FULL CUTOFF DISTRIBUTIONS AND ARE DARK-SKY COMPLIANT WHEN USED WITHOUT UPLIGHT OPTIONS. WALL-SIDE GLARE SHIELD OPTION MINIMIZES WALL BRIGHTNESS DUE TO LAMP PROXIMITY.

**UPLIGHT:** OPTIONAL BEAM OR ACCENT/FLOOD UPLIGHT. BEAM OPTION AVAILABLE FOR HLB LAMPS ONLY (SEE OPTIONS).

**GASKETING:** CLOSED CELL EPDM GASKETING COMPRESSED BETWEEN DOOR AND HOUSING.

**LAMP HOLDER:** MEDIUM BASE PORCELAIN OR 602 PORCELAIN FOR HLB LAMPS. FLUORESCENT LAMPHOLDER VARIES. LAMPHOLDER EQUIPPED WITH FACTORY INSTALLED QUICK DISCONNECT PLUG.

**LAMP:** (BY OTHERS)

**BALLAST:** HLB: H.P.F./C.W.A. AUTOTRANSFORMER - 20° STARTING TEMPERATURE. CFL: FLUORESCENT RAPID START H.P.F. - 20° STARTING TEMPERATURE.


**MOUNTING PLATE:** HEAVY GAUGE ALUMINUM WALL MOUNTING PLATE IS PROVIDED FOR ATTACHMENT TO WALL AND JUNCTION BOX. FIXTURE IS SECURED TO PLATE USING INTEGRATED STAINLESS STEEL CAP SCREWS.

**HARDWARE:** ALL EXPOSED HARDWARE IS STAINLESS STEEL.

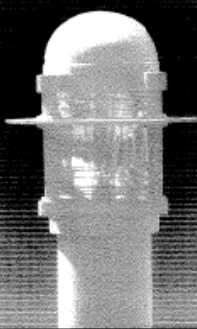
**FINISH:** POLYESTER POWDER COAT STATE OF THE ART 20 PSI PRESSURE POWER WASH AT 140° TEMPERATURE INCORPORATES FOUR STEP IRON PHOSPHATE PROCESS TO CLEANSE AND PRETREAT THE METAL SURFACE FOR MAXIMUM PAINT ADHESION. ELECTROSTATICALLY APPLIED TEXTURED POLYESTER POWDER TOP COAT IS BAKED AT 400° TEMPERATURE FOR MAXIMUM HARDNESS AND EXTERIOR DURABILITY.

# LIGHT TYPE - C

(75 WATT MAX.)




## BDARS




### OPTICS

STANDARD:




☐ (FR) FLAT RING

OPTIONS:

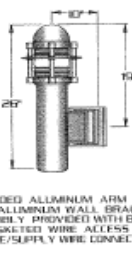


☐ (AR) REFLECTOR



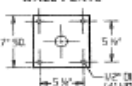
☐ (VR) VERTICAL RIBS

### WALL MOUNT STYLE




EXTRUDED ALUMINUM ARM AND CAST ALUMINUM WALL BRACKET ASSEMBLY PROVIDED WITH BUILT IN GASKETED WIRE ACCESS FOR FUTURE/SUPPLY WIRE CONNECTION.

### WALL PLATE

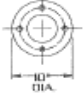


### LAMP SIZE: 13 - 75 WATT



EXTRUDED ALUMINUM CONSTRUCTION.

INTERNAL CAST ALUMINUM BALLAST HOUSING.

MODEL NO.	OPTICS	WATTAGE	TYPE	VOLTAGE	MOUNTING	FINISH	OPTIONS
B D A R S	STANDARD:						
	<input type="checkbox"/> FLAT RING	<input type="checkbox"/> 75	<input type="checkbox"/> HPS	<input type="checkbox"/> 120	<p>GROUND INSTALLATION</p> <p>7/8" DIA BOLT CIRCLE</p>  <p>ANCHOR BOLT (4) 3/8" X 10"</p>	<input type="checkbox"/> DARK BRONZE DBM	<input type="checkbox"/> HOUSE SIDE SHIELD
	OPTIONS:	<input type="checkbox"/> 70	<input type="checkbox"/> MH	<input type="checkbox"/> 277		<input type="checkbox"/> MEDIUM BRONZE MBM	<input type="checkbox"/> 90°
	<input type="checkbox"/> REFLECTOR	<input type="checkbox"/> 50	<input type="checkbox"/> MV	<input type="checkbox"/> MT		<input type="checkbox"/> BLACK BKM	<input type="checkbox"/> 135°
	<input type="checkbox"/> AR	<input type="checkbox"/> 35	<input type="checkbox"/> PL			<input type="checkbox"/> WHITE WTM	<input type="checkbox"/> 180°
	<input type="checkbox"/> VERTICAL RIBS	<input type="checkbox"/> 26	<input type="checkbox"/> INC			<input type="checkbox"/> SILVER SLM	
		<input type="checkbox"/> 18					
		<input type="checkbox"/> 13					

OPTIONAL HEIGHTS:

☐ 30"

☐ 36"

☐ 48"

☐ 60"

☐ 72"

☐ 84"

☐ 96"

☐ 108"

☐ 120"

☐ 132"

☐ 144"

☐ 156"

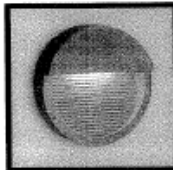
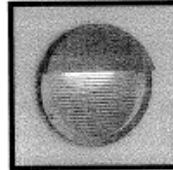
☐ 168"

☐ 180"





# LIGHT TYPE - D



## 30 SERIES

**SURFACE**

**RECESSED**

*IGuzzini design*

**SPECIFICATIONS**

**HOUSING:** ONE PIECE HEAVY WALL ALUMINUM CONSTRUCTION. RECESSED HOUSINGS ARE SUITABLE FOR POURED CONCRETE CONSTRUCTION.

**DOOR FRAME:** CORROSION RESISTANT, PRECISE CAST ALUMINUM CONSTRUCTION WITH INTEGRAL STEPPED CAST ALUMINUM FACE.

**OPTICS:** SPECULAR ALUMINUM REFLECTOR COMBINES WITH CLEAR TEMPERED GLASS LENS AND STEPPED FACE TO EVENLY DISTRIBUTE ILLUMINATION AND CONTROL BRIGHTNESS WHILE CONCEALING LAMP SOURCE.

**GASKETING:** CLOSED CELL SILICONE GASKET COMPLETELY SEALS DOOR AND HOUSING ASSEMBLY.


**LAMP HOLDER:** HID - MEDIUM BASE PORCELAIN.  
FLUORESCENT - SINGLE ENDED BASE FOR 4-PIN COMPACT FLUORESCENT LAMP.

**LAMP:** (BY OTHERS)

**BALLAST:** HID - H.P.F./C.W.A. AUTOTRANSFORMER, -20° STARTING TEMPERATURE.  
FLUORESCENT - RAPID START, H.P.F., -20° STARTING TEMPERATURE.


**MOUNTING:** LUMINAIRE DESIGNED FOR SURFACE AND RECESSED APPLICATION.

**FINISH:** POLYESTER POWDER COAT-STATE OF THE ART 20 PSI PRESSURE POWER WASH AT 140° TEMPERATURE INCORPORATES FOUR STEP IRON PHOSPHATE PROCESS TO CLEANSE AND PRETREAT THE METAL SURFACE FOR MAXIMUM PAINT ADHESION. ELECTROSTATICALLY APPLIED TEXTURED POLYESTER POWDER TOPCOAT IS BAKED AT 400° TEMPERATURE FOR MAXIMUM HARDNESS AND EXTERIOR DURABILITY.




**SURFACE MOUNT FLUORESCENT AND INCANDESCENT**

3051 & 3052




3081 & 3082




**SURFACE MOUNT HID**

3091 & 3092




**RECESSED FLUORESCENT AND INCANDESCENT**

3051 & 3052



**RECESSED HID**

3081 & 3082



CATALOG NUMBER	RECESSED OPENING	DIMENSIONS		
		A	B	C
3052	N/A	10 1/2"	10 1/2"	3 1/2"
3051	N/A	14"	14"	4 1/2"

3082	N/A	10 1/2"	10 1/2"	5 1/2"
3081	N/A	14"	14"	5 1/2"

3092	9 1/2" B X 1 1/2" D	10 1/2"	10 1/2"	3 1/2"
3091	12 1/2" B X 2"	14"	14"	4 1/2"


3092	9 1/2" B X 3 1/2" D	10 1/2"	10 1/2"	5 1/2"
3091	12 1/2" B X 3 1/2" D	14"	14"	5 1/2"

**ORDERING INFORMATION**

MODEL NO. :	WATTAGE	TYPE	VOLTAGE	FINISH	OPTIONS
<b>MODEL NO. :</b>	<b>WATTAGE</b>	<b>TYPE</b>	<b>VOLTAGE</b>	<b>FINISH</b>	<b>OPTIONS</b>
<input type="checkbox"/> 3052	MAXIMUM WATTAGE 60 W. INC. 13 W. PL. (PL-C LAMP)	<input type="checkbox"/> 100 <input type="checkbox"/> 75 <input type="checkbox"/> 70 <input type="checkbox"/> 60 <input type="checkbox"/> 50 <input type="checkbox"/> 42 <input type="checkbox"/> 36 <input type="checkbox"/> 32 <input type="checkbox"/> 28 <input type="checkbox"/> 26 <input type="checkbox"/> 18 <input type="checkbox"/> 13	<input type="checkbox"/> HPS <input type="checkbox"/> MH <input type="checkbox"/> MV <input type="checkbox"/> PL <input type="checkbox"/> INC <input type="checkbox"/> MT	<input type="checkbox"/> BLACK BKM <input type="checkbox"/> WHITE WTM <input type="checkbox"/> SILVER SLN	<input type="checkbox"/> QUARTZ STANDBY (1" DIA. H.I.D. UNITS ONLY) QTZ <input type="checkbox"/> SINGLE FUSE (125V., 277V) ..... SF <input type="checkbox"/> DOUBLE FUSE (200V., 240V) ..... DF
<input type="checkbox"/> 3051	(2) 42 W. PL. (PL-T LAMP)	<input type="checkbox"/> 50 <input type="checkbox"/> 42 <input type="checkbox"/> 36	<input type="checkbox"/> 240 <input type="checkbox"/> 277 <input type="checkbox"/> 480		
<input type="checkbox"/> 3082	50 W. - H.I.D.	<input type="checkbox"/> 50 <input type="checkbox"/> 42 <input type="checkbox"/> 36	<input type="checkbox"/> 277 <input type="checkbox"/> 480		
<input type="checkbox"/> 3081	100 W. - H.I.D.	<input type="checkbox"/> 32 <input type="checkbox"/> 28 <input type="checkbox"/> 26 <input type="checkbox"/> 18 <input type="checkbox"/> 13	<input type="checkbox"/> 277 <input type="checkbox"/> 480		
<input type="checkbox"/> 3092	90 W. INC. 13 W. PL. (PL-C LAMP)	<input type="checkbox"/> 32 <input type="checkbox"/> 28 <input type="checkbox"/> 26 <input type="checkbox"/> 18 <input type="checkbox"/> 13	<input type="checkbox"/> 277 <input type="checkbox"/> 480		
<input type="checkbox"/> 3091	(2) 42 W. PL. (PL-T LAMP)				
<input type="checkbox"/> 3092	50 W. - H.I.D.				
<input type="checkbox"/> 3091	100 W. - H.I.D.				

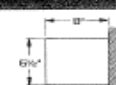

H.I.D. UNITS USE MEDIUM BASE LAMP

SEE PAGE FOR ADDITIONAL COLORS





# LIGHT TYPE - E

## LASER

**LAS5552**  
(QUARTZ HALOGEN)  
(100 WATT, MAX.)

**LAS5562**  
(H.I.D. - 70 WATT, MAX.)

*Yamada design*

**SPECIFICATIONS:**

**HOUSING:** PRECISE CORROSION RESISTANT DURABLE CAST ALUMINUM CONSTRUCTION.

**OPTICS:** BI-CONVEX LENS FEATURES DIRECTIONAL LASER BEAM CONTROL AND (OR) GENERAL ILLUMINATION (5° BEAM MAXIMUM).


**LAMP HOLDER:** H.I.D. - MEDIUM BASE PORCELAIN.  
QUARTZ - MINI CAN FOR TUNGSTEN HALOGEN SINGLE ENDED LAMP.

**LAMP:** (BY OTHERS)

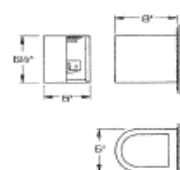
**BALLAST:** H.P.F./C.W.A. AUTOTRANSFORMER, -20° STARTING TEMPERATURE. ELECTRICAL COMPONENTS ARE MOUNTED TO A REMOVABLE BALLAST TRAY.

**MOUNTING:** WALL MOUNT, COLUMN MOUNT.

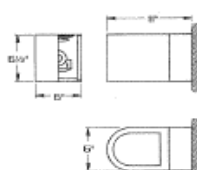
**FINISH:** POLYESTER POWDER COAT-STATE OF THE ART 20 PSI PRESSURE POWER WASH AT 140° TEMPERATURE INCORPORATES FOUR STEP IRON PHOSPHATE PROCESS TO CLEANSE AND PRETREAT THE METAL SURFACE FOR MAXIMUM PAINT ADHESION. ELECTROSTATICALLY APPLIED TEXTURED POLYESTER POWDER TOPCOAT IS BAKED AT 400° TEMPERATURE FOR MAXIMUM HARDNESS AND EXTERIOR DURABILITY.









**LAS5552**  
(QUARTZ HALOGEN)



**LAS5562**  
(H.I.D.)











**ORDERING INFORMATION**

MODEL NO. :	WATTAGE	TYPE	VOLTAGE	FINISH	OPTIONS
<b>MODEL NO. :</b>	<b>WATTAGE</b>	<b>TYPE</b>	<b>VOLTAGE</b>	<b>FINISH</b>	<b>OPTIONS</b>
<input type="checkbox"/> LAS5552	MAXIMUM WATTAGE 100 70 50	<input type="checkbox"/> HPS <input type="checkbox"/> MH <input type="checkbox"/> QUARTZ HALOGEN	<input type="checkbox"/> 120 <input type="checkbox"/> 208 <input type="checkbox"/> 240	<input type="checkbox"/> BLACK BKM <input type="checkbox"/> WHITE WTM <input type="checkbox"/> SILVER SLN	<input type="checkbox"/> BEAM UP, FLOOD DOWN ..... BF <input type="checkbox"/> FLOOD UP, BEAM DOWN ..... FB <input type="checkbox"/> BEAM UP, BEAM DOWN ..... BB <input type="checkbox"/> FLOOD UP, FLOOD DOWN ..... FF <input type="checkbox"/> NO UP LIGHT, FLOOD DOWN ..... NF <input type="checkbox"/> FLOOD UP, NO DOWN LIGHT ..... FN
<input type="checkbox"/> LAS5562	H.I.D.				

H.I.D. UNITS - MAX. 70 WATT

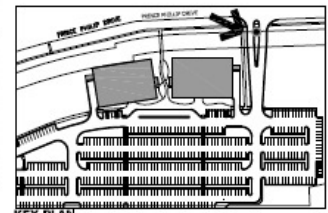
SEE PAGE FOR ADDITIONAL COLORS



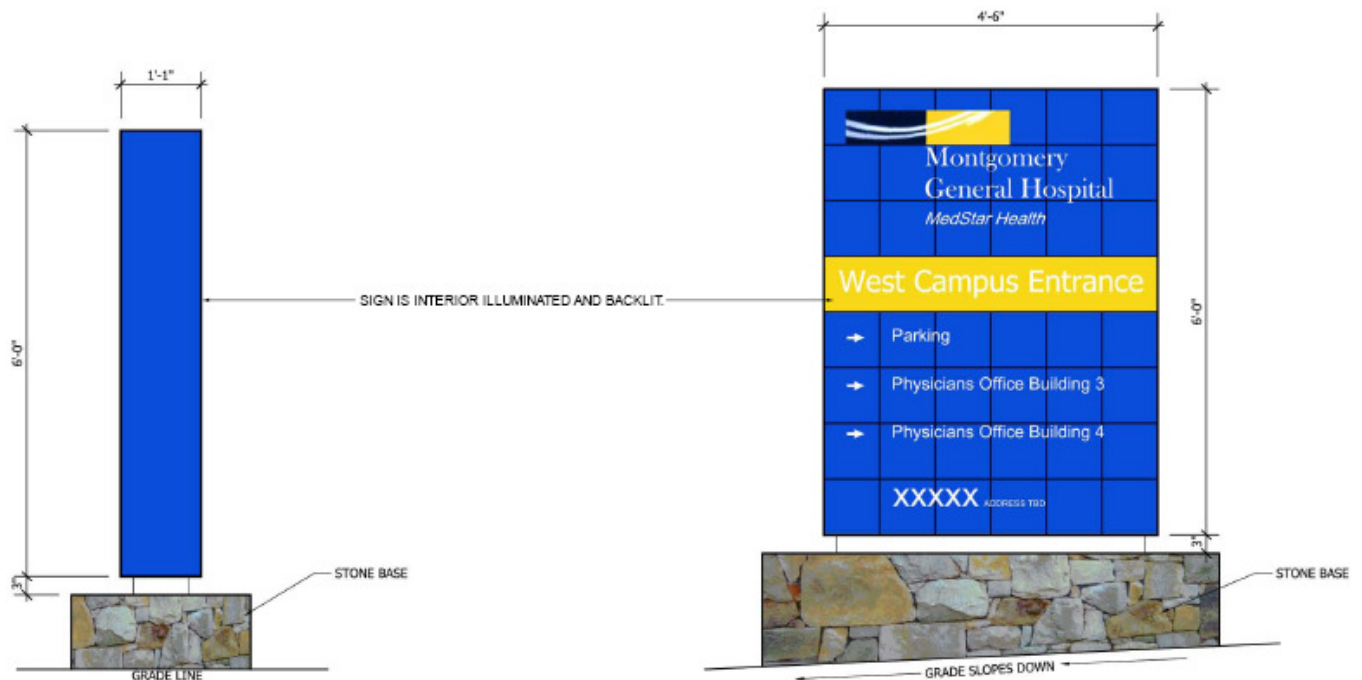


### Signage:

The final item in this section concerns signage. Mr. Landfair noted that the proposed signage will consist of a monument-type sign at that monumental entrance, as well as wall-mounted signs on the buildings identifying their respective uses. There may also be some way-finding signs posted on the site to help guide visitors around. Tr. 98. Mr. Beshore described the signage for the site, which is shown in a four-page exhibit, 22(gg). Page S1-A is a perspective view of the proposed monumental sign at the driveway entrance, which is similar in nature to the existing signage that is at the entrance to Montgomery General Hospital on the East Campus. This ground mounted sign is located at the midpoint of the median:



Page S1-D of Exhibit 22(gg) shows the details of the proposed monument sign. It was revised in Exhibit 66(a) to note that the sign will be illuminated internally and backlit. The monument sign will have a stone base, which is similar to the planned garden wall in the front of the building, and a verbal content similar to that existing on the East Campus signs. The sign will indicate the direction of parking and the two new POBs. Tr. 176-179, 192. Exhibit 66(a) is reproduced on the next page:



The other sign plans show the locations of signs on POBs 3 and 4. These plans (Exhibits 66(b) and (c)) are reproduced below:



While the signs described above appear reasonable to the Hearing Examiner for a hospital use, they will exceed the two square-foot limit imposed by Chapter 59-F of the Zoning Ordinance for residential zones. Petitioner must therefore apply to the Department of Permitting Services for sign variances. The following condition is recommended in Part V of this report:

All signs placed on the property must meet the requirements of Zoning Ordinance Chapter 59-F, unless a variance is granted by the Department of Permitting Services or the Sign Review Board. Sign permits must be obtained, and a copy of those permits and a signage plan showing the location and description of all new signs must be filed with the Board of Appeals prior to posting any new signs.

#### **6. Environment and the Forest Conservation Plan:**

Technical Staff reported that a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) #420080480 was approved for the site on November 14, 2007, and Staff described the property as follows (Exhibit 28, pp. 11-12):

The site is in the Hawlings River subwatershed of the Patuxent River basin and is designated as class IV-P waters. There are no streams, wetlands, and 100-year floodplain on-site; however, there are Patuxent River Primary Management Area (Patuxent PMA) boundaries on the northern and southern thirds of the site. These boundaries roughly bisect the site from east to west into approximate thirds with the middle one-third of the site in-between the two outer thirds. Steep and severe slopes are on-site along areas of three property lines with the greatest concentration located at the entire north/northeast property lines. This property is not located within a Special Protection Area. . . .

[However,] the site is located in a *non-conforming* zone of the Patuxent PMA, [which is governed by Section] VII D-1(d) of the Environmental Guidelines. As a result, the site is subject to “nonconformance requirements” as described in that section of the Guidelines. The Guidelines require use of state-of-the-art best management practices (BMPs), innovative stormwater management (SWM), and/or environmental site design to provide enhanced protection to the Patuxent River and the public water supply reservoirs it contains, beyond normal requirements.

Environmental Planning Staff therefore recommended the following additional conditions which have been adopted by the Planning Board and the Hearing Examiner:

All development within the Patuxent River Primary Management Area (PMA) must comply with Chapter VII –D -1(d) of the Environmental Guidelines before issuance of a sediment and erosion control permit and:

- a. Enhanced SWM/BMPs must be applied to the entire site per the “non-conformance” criteria of the Environmental Guidelines in coordination with County DPS, and
- b. All plans in CBA-2521-J must show the Patuxent River PMA delineation as shown on the PFCP

Petitioner obtained approval of the Department of Permitting Services (DPS) for its stormwater management concept plans on April 27, 2009 (Exhibit 41), and is therefore currently in compliance with ¶ a. of the environmental conditions outlined above. Petitioner revised plans also reflect the “Patuxent River PMA delineation,” thereby complying with ¶ b of the environmental conditions.

#### **Stormwater Management:**

Michael Goodman, Petitioner’s civil engineer, testified that he prepared the stormwater management concept plans (Exhibits 22( n) and (o)) for the site.

Mr. Goodman explained that there are several storm water management features that Petitioner is proposing. One is that portions of the roof top are going to be “green roof,” as shown in Exhibit 57(f), instead of the standard imperviousness. There are seven pretreatment stormwater management structures; those are hydrodynamic water quality structures which will actually remove a significant amount of the oils and the grits from the water runoff. Petitioner also will provide water quality storage in large diameter CMP (corrugated metal pipes) which will store the water and allow the sediments to trickle out and will allow cleaner water to discharge. In addition, Petitioner is proposing seven storm filters which will actually cleanse the water, essentially as a sand filter would. Finally, ground water recharge will be provided. Once the water has been cleaned, then it will go into another series of large diameter CMP pipes, which are perforated, so the water will collect and then slowly disperse into the

ground water. The channel protection volume requirements (*i.e.*, quantity control) are provided offsite at Lake Hollowell, so Petitioner is not required to provide additional quantity control. Mr. Goodman determined that the downstream storm drain size is adequate to handle the additional runoff. Tr. 123-126. In Mr. Goodman's professional opinion, the wet public facilities (the storm drain, the public water and the sanitary sewer) are adequate to serve the proposed use. Tr. 128-129.

Technical Staff had raised a concern about locating the stormwater facility where they might want an additional access to the site, but Mr. Landfair testified that that was not a problem because it is an underground facility, under what would be a private road, so if an additional driveway is added in that location, it could be done without moving the stormwater facility. Tr. 93-95. Mr. Goodman confirmed that the storm water management facility to be located north of POB #4 would not preempt any driveway improvements wherever they might occur in the future. Those storm water facilities were specifically designed so that if another entrance is necessary, they would not have to be removed and relocated. Tr. 126-127.

**Forest Conservation:**

Technical Staff notes that the site is subject to Chapter 22A of the Montgomery County Code, which codifies the Montgomery County Forest Conservation Law. Exhibit 28, p. 11. In compliance therewith, Petitioner submitted a preliminary forest conservation plan (PFCP) to Technical Staff and subsequently revised it in accordance with Staff's recommendations. The revised PFCP is in the record as Exhibits 71(d) and (e). On September 29, 2009, the Planning Board adopted a resolution approving Petitioner's Preliminary Forest Conservation Plan (Exhibit 78).

Based on this record, the Hearing Examiner finds that Petitioner has appropriately responded to all environmental concerns.

**7. The Long-Range Master Plan Issue:**

One of the points raised by Technical Staff, the Planning Board and the People's Counsel was the need for a long-range master plan for MGH. As stated by Technical Staff (Exhibit 28, p. 19):

With the recommended conditions, the proposed modification will be in harmony with the general character of the neighborhood and not adversely affect surrounding properties or the general neighborhood. The Hospital has been at the same location for over thirty years and has had over 30 special exception modifications. When considered individually, each modification may not be problematic, but cumulatively could strain adjacent roads and result in poor on-site circulating, an inadequate overall number of parking spaces, and inefficient layout of hospital facilities. Staff would have serious concerns over any future Hospital expansion and the potential impacts on surrounding properties if not done in conjunction with a long-range campus master plan. [Emphasis added.]

The People's Counsel argued that the campus master plan should be done within eight or nine months (Tr. 28-29), and Petitioner urged that it needs until December 2010 to complete its master plan. Tr. 25-26. As to timing, the Planning Board stated (Exhibit 31, p. 2):

In discussing the proposed expansion, the Board noted that the hospital has undergone a series of individual modifications and expansions without benefit of a long-range campus master plan. The hospital was urged to assess how it can best accommodate ongoing expansions while preserving the integrity of a well functioning campus. Although a high priority was placed on preparation of a campus master plan, the Board agreed that the Hospital's interest in completing conversion to all-single occupancy rooms should not be dependent on the availability of a campus master plan. [Emphasis added.]

Petitioner's president, Peter Monge, testified that MGH needs the additional time to prepare its long-range master plan because of its recent acquisition by MedStar, which may call for different services from different participating hospitals in specific locations, and because of the ongoing national healthcare reform process, which adds uncertainties to the planning process until it is completed. Tr. 25-26, 31-33. The Hearing Examiner notes the Planning Board's flexibility on this

issue, and is persuaded by Petitioner's reasons for needing additional time. Therefore, the Hearing Examiner has recommended the following condition in Part V of this report:

On or before December 31, 2010, Petitioner must provide a long-range master plan for MGH, describing anticipated changes in physical and operations characteristics of the hospital over the long term, including, but not limited to, existing and future buildings, access roads, pedestrian circulation and roadway connection options.

#### **D. Concerns of the Neighbors (Pedestrian Access and Landscape Screening)**

##### **1. Neighborhood Concerns:**

Although there were no opposition letters, nor opposition testimony, Technical Staff reports (Exhibit 28, p.10) that two concerns were raised by the neighbors in the course of Petitioner's outreach to the community, which included meeting with the Greater Olney Civic Association (GOCA). Those concerns are the need for adequate pedestrian access to the West Campus along Prince Philip Drive and that sufficiently dense landscape screening be put in place along the rear property line, adjacent to the townhomes, prior to commencement of heavy construction on the site.

As discussed elsewhere in this report, adequate pedestrian access to the site will be provided, and appropriate screening, through a landscaped berm, will be provided as a buffer between the subject site and adjacent townhouses. The Hearing Examiner finds that all of the community concerns regarding CBA-2521-J were appropriately addressed by Petitioner.

##### **2. Community Liaison Council:**

During the course of the hearing, Martin Klauber, the Peoples Counsel, recommended that a condition be imposed on this special exception for the creation of a Community Liaison Council (CLC), which would meet at least twice a year and report annually to the Board of Appeals. The CLC would include representatives of GOCA, as well as those from home owners and civic associations

from the surrounding community. Tr. 230-231. Petitioner does not oppose the concept of CLCs, but feels that one is unnecessary in this case, where there has been no problem with community relations. Tr. 231. Mr. Klauber responded that the CLC is still appropriate because it provides a mechanism for avoiding such conflicts in the future. Tr. 231-232.

Although the Hearing Examiner agrees with the People's Council about the general utility of CLCs and has recommended them in many cases, he must base his recommendations only on the evidence before him, and no evidence was presented in this matter establishing the need or even the advisability of a CLC in this case. The People's Counsel's unsworn opinions, perspicacious as they may be, are not evidence in the case. Based on the record in this case, the Hearing Examiner cannot recommend a CLC.<sup>8</sup>

### **III. SUMMARY OF THE HEARING**

#### **A. Petitioner's Case**

Petitioner called six witnesses at the hearing, Peter Monge, President of Montgomery General Hospital; Michael Abrams, a partner in the ownership and management of the proposed buildings; William Landfair, a land planner; Michael Goodman, a civil engineer; Jason Beshore, an architect; and Craig Hedberg, a traffic engineer. Martin Klauber, the People's Counsel, participated in the hearing but did not call any witnesses. Mr. Klauber suggested that the Hospital be required to submit a long range plan for future development. Tr. 11-12. There were no opposition witnesses.

##### **1. Peter Monge (Tr. 13-38):**

Peter Monge testified that he is the President of Montgomery General Hospital, and he reports

---

<sup>8</sup> The Hearing Examiner notes that if there had been a recommendation for a CLC in CBA-2521-I (the Hospital's last modification petition), the evidence would have justified it in that case because issues raised by the community at the hearing (helicopter noise and traffic) had to be resolved by the hearing examiner in his report. In contrast, there was no opposition in the current case, CBA-2521-J, and the Hearing Examiner was not called upon to resolve any community concerns.



back to an executive vice-president at MedStar. MedStar is a not-for-profit regional health system. It owns eight hospitals, plus pharmacies, physician practices and the like. In the D.C. area, MedStar owns Georgetown University Hospital, Washington Hospital Center, National Rehab Hospital and now Montgomery General Hospital. Montgomery General Hospital (MGH) still exists and has its own Board of Directors, but the Board of Directors acts to endorse budgets and plans. Those then are subsequently approved by MedStar.

MGH is about midway through the process of construction authorized by CBA-2521-I. He expects to open the new emergency department in February. MGH is applying for a certificate of need to fill in the third floor shell approved in CBA-2521-I, and to add three more smaller floors for private inpatient rooms. That would be the subject of special exception modification petition CBA-2521-K, which is being prepared for submission.

The current petition seeks to add two additional physician office buildings (POBs #3 and #4) to the West Campus, without disturbing the existing uses, Winter Growth, which is an adult daycare center, and a thrift shop. MGH needs more space for physician offices because the east side of the campus was getting very cramped and could not handle much more physician type office space. Foulger-Pratt, a for-profit company, owns the two existing physician office buildings, which are located on the East Campus. MGH would enter into ground leases with them for the proposed POBs #3 and #4 on the West Campus.

Mr. Monge noted that physicians want to be as close to a hospital as possible. The two buildings that are on the campus now are full, and so MGH needs more space for physicians that want to come to the area as it grows. This addition will provide space for the long term.

Mr. Monge met with Greater Olney Civic Association and with the Associations representing the townhouses and condominiums immediately to the west of the subject site. There was no opposition.

Mr. Monge further testified that the Petitioner has agreed to produce a comprehensive master plan for the hospital, but needs a bit more time than Mr. Klauber has suggested to prepare such a comprehensive plan. The additional time is needed because it must be coordinated with MedStar's plans for working together with Washington Hospital Center, Georgetown and National Rehab, to figure out what services make the most sense in specific areas. That process is really just starting, so it will take till about December of 2010 to complete the plan. In addition, the current healthcare reform efforts may change many things for the hospital, so it is difficult to plan until that is worked out.

According to Mr. Monge, Foulger-Pratt would not own the land, but they would own the buildings, as they currently own POBs #1 and 2, and would enter into a 99-year ground lease with Petitioner for POBs #3 and 4, as was done for POBs #1 and 2. When asked on cross-examination whether conditions placed on this office building by the Board of Appeals are placed on Foulger-Pratt or on Montgomery General Hospital, it was Petitioner's counsel, Jody Kline, who answered, "They are placed on the holder of the special exception that will be responsible for compliance with all those conditions. It will be up to Foulger-Pratt and the hospital to work that out, so Mr. Monge and his staff are in charge." Tr. 35.]

2. Michael Abrams (Tr. 39-44, 107-120):

Michael Abrams testified that he is a partner with a "for profit" company, Foulger-Pratt, in the ownership and management of the proposed and existing physicians office buildings. Foulger-Pratt is a company that constructs, develops, manages and owns real estate.

According to Mr. Abrams, the land underneath the existing two buildings on campus is owned by the hospital. The improvements are owned by Foulger-Pratt, subject to the ground lease and the terms of that ground lease which require that the buildings only be occupied by physicians that are on staff at the hospital. The existing ground lease specifies that Foulger-Pratt will be bound by the terms

of any special exception. [Mr. Kline agreed to provide a copy of that language]. The leases for the new buildings would have the same language.

Mr. Abrams further testified that he has been involved for about 10 years in the ownership and management of the East Campus POBs, as well as other real estate management. His experience in 10 different properties is that a parking ratio in the 4 per 1,000 range is more than appropriate for this type of building. The existing buildings on campus are parked at about a 3 per thousand ratio, which is tight given the amount of traffic that the buildings have. He has never built anything above a 4.25 per 1,000 as a parking ratio.

In particular, he believes that the buildings on a hospital setting probably could be parked on the lower range because most of those physicians are specialists who see fewer patients per time that they're there. Plus, the specialists, in many cases, will have multiple offices so you may have a physician that is at this location two or three days a week and then they are at another location the other days, whereas a primary care physician is pretty much implanted in that location, they tend to work there five, seven days a week. So given the nature that it is a hospital setting, given his experience in a number the buildings, as well as the specific ones on campus, he feels that a parking ratio of 4 per 1,000 is appropriate for this type of use.

Moreover, there will be time to adjust if there is a parking problem because the property will be improved in two phases. The initial building will probably have a 5 per 1,000 ratio. In the long term, there may be additional facilities and a parking garage on the West Campus. In any event, if the Code requires a 5 per 1,000 ration, a waiver would be appropriate here to allow a 4 per 1,000 ratio.

[Mr. Kline argued that the Code is ambiguous on the point and that the 4 per 1,000 ratio is appropriate for hospitals. Adventist Hospital agreed to a 5 to 1,000 ratio because it served their own purposes in their case.]

Mr. Abrams noted that the transit center proposed for the western edge of the East Campus would also reduce the number of parking spaces needed on the West Campus, 100 to 300 feet away, but he couldn't say how much.

3. William Landfair (Tr. 44-107, 217-219):

William Landfair testified as an expert in land planning. He noted that the total acreage of the MGH campus (depicted on the Revised Vicinity Map, Exhibit 39) is 46.46 acres, including newly acquired tracts, as specified in Consolidation Plan (Exhibit 22(m)). It consists of the East (or Main) Campus, the West Campus and Miscellaneous Parcels. He is not sure why Technical Staff's numbers (Exhibit 28 at page 13) disagree slightly.

The West Campus consists of 14.61 acres (including the lot on which Winter Growth is located), all in the R-60 Zone. It has 1335 feet of frontage on Prince Phillip Drive (not counting the frontage on the Winter Growth Lot), and 378 feet of frontage along Maryland 108. The Winter Growth facility, which is located to the north, is not the subject of this modification, because that property won't be redeveloped or affected in any way by the modification. It has its own parking and access to Prince Phillip Drive contained within the Winter Growth property, and they also will not be impacted in any way by this proposal. It operates in accordance with two special exceptions, one for adult daycare and one for elderly housing (S-1920 and S-1921).

The only manmade features on the remainder of the West Campus are the thrift shop and its associated surface parking, which will be affected by this modification. The thrift shop is operated by the hospital's Women's Board, pursuant to special exception No. S-511.

The topography of the West Campus slopes gently from the west to form a grassy plateau in the center of the property before sloping down towards Prince Philip Drive. In terms of vegetation, mostly it's grass on the site. The property is bisected by the Patuxent River Primary Management

Area, and as noted by staff in their technical report, the property is a nonconforming property within that PMA. Nevertheless, Technical Staff has encouraged best management practices for the property and one of the conditions of approval in the special exception report was to locate the PMA lines on the exhibits. It's noted that on the Forest Conservation Plan that had been previously submitted, the lines were denoted, the boundaries were denoted.

In terms of best management practices cited by staff, they acknowledged the use of a green roof on the proposed buildings but they're also suggesting bioretention and other special measures to be worked out at a later point in time in consultation with Park and Planning staff and County DPS staff.

The properties that are affected are three unrecorded parcels and so they will have to go through subdivision to consolidate them into one buildable parcel. According to Mr. Landfair, the Planning Board approved the Preliminary Forest Conservation Plan, with conditions. Technical Staff did not want some trees to the west of the campus preserved as forest, but it did want the Miscellaneous Parcels to be folded into the forest conservation plan. [Mr. Klauber suggested that forest conservation on the Miscellaneous Parcels would be beyond the scope of this special exception.]

Mr. Landfair described the General Neighborhood recommended by Petitioner, as shown on Exhibit 35, which is smaller than that recommended by Technical Staff and used in the previous modification case, CBA-2521-I, but noted that Petitioner was prepared to accept the neighborhood as defined in the previous modification. Tr. 49-50. To the north of the East Campus, there are single-family residential homes in the RE-2/TDR Zone. This neighborhood is separated by a wooded stream valley buffer area. To the northeast, is the Brooke Grove Elementary School which is located in the RE-2/TDR Zone. Moving south along Old Baltimore Road, there are single-family homes and townhomes in the RE-2/TDR Zone and the R-200 Zone. The single-family homes that are located

directly south of the east campus are separated from that campus by another stream valley buffer that is wooded. Further south along Old Baltimore Road, there is another community of single family homes, townhomes in the RE-2/TDR Zone. And moving south across Maryland Route 108, there are single-family homes and townhomes in the RE-2/TDR Zone. Moving further to the west, there is a church, and then commercial uses are further to the west in the Olney Town Center, within the MXTC Zone. That Zone carries all the way over to Georgia Avenue. Immediately to the west of the West Campus, there are two townhome communities in the PD-9 Zone and an office development in the OM Zone. It is these townhomes that would be most immediately impacted by development on the West Campus. The miscellaneous parcels owned by the hospital along the east side of Prince Philip Drive are located in the R-200 Zone.

Mr. Landfair described the proposed modification: Two buildings that are proposed, physician office buildings, which are located along the roadway to relate to Prince Philip Drive. The buildings themselves are four stories in height and each building will contain approximately 60,000 square feet for a total square footage of 120,000 square feet. The mix of services proposed for the building include those that are found in the physician office buildings on the main campus. These include primary care, specialists and laboratory services. It's also possible that there may be some sort of ancillary retail in these buildings such as a food service and a gift shop or the like.

He opined that the buildings not only relate well with the street but also with each other. Between them will be a courtyard which will serve as an amenity for staff and patients and visitors to the site. They are connected by a covered walkway which in turn provides access to a "lay-by" for convenience. A lay-by is an area of temporary parking for vehicles in front of the main entrances to the buildings. The lay-by spaces are not factored into the parking calculation. They are provided as a matter of convenience to allow visitors, primarily, to pull up to the main entrance temporarily. There

probably would be a time limit, perhaps 15 minutes. Immediately adjacent to the lay-by are the accessible parking spaces, and there are nine proposed per the code.

There is a single point of access proposed at this time for the property. It's located off of Prince Philip Drive. It would be "a monumental entrance" approximately 390 feet from the intersection with Maryland 108. It is called "monumental" because it will have a median separating the incoming lane from the two outbound lanes, and will have a monument entrance sign. It will have a 30-foot turning radius, which exceeds what would be necessary, normally, for emergency vehicles. Mr. Landfair opined that there is adequate room for queuing in the outbound lanes exiting onto Prince Philip Drive.

The layout for the parking facility itself, which provides a total of 499 parking spaces, arranges the spaces perpendicular to the buildings. Because of the straightforwardness of the layout, it will be easy for people to find their way, and to orient themselves around the site. The parking facility is landscaped with shade trees and notably, there is a buffer established along the west side, which at a minimum, is 40 feet in depth. There will be a berm running from eight to ten feet tall, and it will be landscaped, with deciduous trees, evergreen trees, and also the retention of some of the forested area to screen and mitigate the view of the parking facility from the neighboring townhouse community. Some of those homes would be within 20 feet of the property boundary. Tr. 70-71, 102-103.

According to Mr. Landfair, the pedestrian circulation will be improved, not just with a sidewalk along the monumental entrance but also with sidewalks in front of the buildings themselves and a sidewalk that will connect the courtyard area between the two buildings with a sidewalk that will run along Prince Philip Drive.

Petitioner will be providing 499 parking spaces on the West Campus. Mr. Landfair opined that the parking ratio Petitioner should be held to is the office medical practitioner rate, which is a rate of

four spaces per medical practitioner. Petitioner has estimated, based on experience with the physician office buildings on the main campus, that there will be one medical practitioner for every thousand square feet in these buildings, and as such, there will be about 120 practitioners within a total floor area of 120,000 square feet in the buildings. Applying the four spaces per practitioner ratio, that yields a requirement of 480 spaces. So the actual proposed number of parking is just above what Petitioner believes the minimum parking should be.

Petitioner wants to hold to a ratio that is consistent with what is already found on the main campus. If a waiver is required, based on Technical Staff's recommendation for a requirement of five spaces for every practitioner, Mr. Landfair believes that a waiver is justified, in part because the proposed transit center may help to offset the need for parking on the site.

Mr. Landfair indicated that Technical Staff wanted Petitioner to allow for an entrance just to the north of POB #4 off Prince Philip Drive, which would line up with Brooke Farm Drive. Petitioner very strongly opposes any such linkage. Petitioner feels that the additional driveway could be located anywhere along Prince Philip Drive to the north of those buildings, and because Petitioner's building program in the future may require another building in that immediate area, it didn't want to be locked into that particular location for a second entrance. Petitioner feels that there's some justification for a second entrance directly opposite the main hospital entrance which places it further up Prince Philip Drive, closer to the Winter Growth facility. In Mr. Landfair's professional opinion, even with the two buildings, it would be sufficient to have the one monumental driveway entrance, where it is located along Prince Philip Drive, given the overall size of the parking facility itself and the proximity of even the furthest spaces from the buildings. He believes the layout works very well and will be safe, adequate and efficient for the purposes of this application.



Mr. Landfair summarized the Landscape (or Overall Planting) Plan, which was revised consistent with Technical Staff's recommendations, by adding additional landscaping, primarily in the area of the courtyard between the two buildings as well as along the sidewalk that leads from that courtyard down to a sidewalk along Prince Philip Drive itself. Petitioner also added additional plantings in the form of evergreen trees, ornamental trees and shrubs to what has been characterized as the rear side of the buildings, but the side of the buildings that face out onto Prince Philip Drive, to accent those buildings. Petitioner has added street trees along the roadway, the precise location of which may be subject to change at preliminary plan. County DOT may suggest some variation in terms of either the spacing of the trees or their location either within the right of way or the property line, but in his opinion, what is reflected now is a fairly good location and would meet with Park and Planning approval and support.

Mr. Landfair described the new transit center which is proposed. Although it has been proposed in conjunction with this application, the location itself is within the East Campus along Prince Philip Drive, in a primarily grassy area separating an existing parking lot from Prince Philip Drive, as shown in Exhibit 37, which shared with Park and Planning transportation staff as well as County DOT and WMATA, and according to Mr. Landfair was well-received. The intent is to replace an existing facility that's located just to the north of the existing parking garage on the east campus. It will provide greater opportunities for passenger transfers, and bus layovers. It provides four bus bays, three that would be located directly off of Prince Philip Drive itself, and the fourth bay would be located on the interior.

The expectation is that at preliminary plan, this design may be refined and would provide additional details, including landscaping. The Master Plan recommends expanded transit facilities for the Olney area and talks about a facility on the West Campus. However, the East Campus location is

more central and more convenient for the majority of the people that would use the facility, those people visiting the main hospital complex on the East Campus. It also provides a way to satisfy PAMR and LATR requirements.

Mr. Landfair further testified about the inherent and non-inherent adverse effects of the proposed modification. The inherent characteristics of a modern hospital include a large physical plant with facilities that generate visual and noise impacts, it has continuous operations around the clock seven days a week. Typically, you have a large number of staff, patients and visitors. There's lots of external lighting for the safety and security of visitors and obviously, you have noise generated from HVAC systems as well as emergency vehicles. And then you have traffic and parking in proportion to the size of the overall number of staff and visitors, and it also generates a large amount of waste material which needs to be dealt with.

In Mr. Landfair's opinion, the anticipated effects on the general neighborhood will be relatively minimal. The buildings will be oriented to the roadway, parking is located to the rear, there are substantial (40-foot) setbacks, berming and landscaping to mitigate the effects of the parking, adequate queuing of vehicles is accommodated within the driveway entrance, and the transit facility will help to mitigate, offset the traffic that might be generated. Mr. Landfair noted that most hospital campuses are located in residential areas, and some hospital complexes don't have the land area MGH has. He believes there will be no non-inherent characteristics or adverse effects. Tr. 83-85.

The applicable Master Plan is the 2005 Olney Master Plan. According to Mr. Landfair, the Master Plan supports the existing R-60 Zoning for the property which in turn, allows the use by special exception. The existing hospital has been presumed to be in conformance with the Master Plan since it's operated for many years by special exception. The Master Plan actually recognizes the hospital as the largest employer in the area and notes, "It is expected to grow about 10 percent in the

next 10 years.” It also further notes future expansion of the hospital is supported on the main campus as well as on the vacant site across the street from the main campus, making reference to the West Campus. So the Master Plan anticipated that hospital operations would be moving over to the West Campus at some point in time. Pages 16-17.

The Master Plan, on page 104, discusses opportunities for improving transit in the Olney area and recommends the West Campus as one of several possible sites.

Mr. Landfair reviewed the specific conditions, general conditions and the general development standards required for this special exception modification, and opined that the subject petition complied with all. Tr. 87-98. He noted that the buildings will maintain minimum setbacks of 71 feet for the POB-3 building, and 50 feet for POB-4 from the nearest lot line, which is the right of way with Prince Philip Drive. Other setbacks are substantially greater than that to the west, to the east, to the north.

Mr. Landfair also explained that Technical Staff would have preferred to have the drive aisles in the parking lot perpendicular to the buildings, which would have enabled visitors to walk along the medians to get to the buildings themselves. In their mind, it would be safer that way. The reason Petitioner organized the parking facility with parallel drive aisles has to do with the constraints of the site, the shape of the property, and the slopes. He felt that this layout is much more efficient. It allows more spaces for a given area and also it is just as safe, if not safer, than what Staff was advocating because with Staff's orientation, you're going to have more intersecting driveways within the parking lot whereas Petitioner's layout minimizes those conflicts. The more intersecting driveways you have, the more potential for conflict, both for vehicles and pedestrians. Also, with Petitioner's layout, there are greater opportunities for landscaping and screening. If you have the drive aisles perpendicular to the buildings themselves, the medians, though landscaped, leaves the view into

those drive aisles leave, including the view of headlights, more open from adjoining properties, whereas with Petitioner's layout, being parallel to the buildings, the landscaping within the medians provides greater screening, and thus greater mitigation of the view of the parking spaces from the adjoining properties. So, both from an operational perspective and from a concern about how it would look to the surrounding area, he believes Petitioner's approach was a better one to take. Ultimately, Staff approved the plan. Tr. 91-92, 105.

Technical Staff had raised a concern about locating the stormwater facility where they might want an additional access to the site, but Mr. Landfair noted that was not a problem because it is an underground facility, under what would be a private road, so if an additional driveway is added in that location, it could be done without moving the stormwater facility. Tr. 93-95.

Mr. Landfair noted that the proposed signage will consist of a monument type sign at that monumental entrance as well as wall-mounted signs on the buildings identifying their respective use. There may also be some way-finding signs posted on the site to help guide visitors around. A signage plan that will describe all signage that's intended for the site. Tr. 98.

Mr. Landfair concluded that this modification would not change the nature or the character of the existing special exception use to the extent that substantial adverse effects on the surrounding neighborhood will occur; that the application is in accordance with the master plan; that it satisfies the special exception criteria for hospitals and meets the general conditions as well for the use. Tr. 98-99.

Mr. Landfair further testified that the deciduous trees to be planted along the landscape strip separating the parking lot from the community to the west are denoted as two-and-a-half to three-inch caliper trees. That equates to roughly 10 to 12 feet in overall height at planting time. [Mr. Klauber raised some concern about the viability of trees planted when they are that tall. Petitioner will look into it.] Tr. 217-219.

4. Michael Goodman (Tr. 120-131):

Michael Goodman testified as an expert in civil engineering. He prepared stormwater management concept plans (Exhibits 22( n) and (o)) for the site. Montgomery County Department of Permitting Services approved the concept plans on April 27, 2009 (Exhibit 41).

Mr. Goodman explained that there are several storm water management features that Petitioner is proposing. One is that portions of the roof top are going to be green roof, instead of the standard imperviousness. There are seven pretreatment structures; those are hydrodynamic water quality structures which will actually remove a significant amount of the oils and the grits from the water runoff. Petitioner also will provide water quality storage in large diameter CMP (corrugated metal pipes) which will store the water and allow the sediments to trickle out and will allow cleaner water to discharge. There is also filtration. Petitioner is proposing seven storm filters which will actually cleanse the water, essentially as a sand filter would. And then there is also ground water recharge which will be provided. Once the water has been cleaned, then it will go into another series of large diameter CMP pipes which are perforated so the water will collect into that and then slowly disperse into the ground water. The channel protection volume requirements (*i.e.*, quantity control) are provided offsite at Lake Hollowell so Petitioner is not required to provide additional quantity control. Mr. Goodman determined that the downstream storm drain size is adequate to handle the additional runoff.

Mr. Goodman confirmed that the storm water management facility to be located north of POB #4 would not preempt any driveway improvements wherever they might occur in the future. Those storm water facilities were specifically designed so that if another entrance is necessary, they would not have to be removed and relocated. That is because it would be a private driveway. If it was public, it would be a lot more difficult given the regulations.

Mr. Goodman further testified that there is public water and sewer service in Prince Philip Drive. WSSC determined that service is available for 130,000 square feet of office, even though this project is for just 120,000 square feet, and provided conceptual approval on September 9th, 2008 (Exhibit 42). In Mr. Goodman's professional opinion, the wet public facilities (the storm drain, the public water and the sanitary sewer) are adequate to serve the proposed use.

Mr. Goodman further testified that the new entrance Petitioner is proposing has adequate sight distance, as does the new entrance for the transit center.

5. Jason Beshore (Tr. 132-193):

Jason Beshore testified as an expert in architecture. Using Elevations (Exhibits 44, 45 and 46), he described the proposed POBs. The buildings will be identical in size, each with a footprint of 15,000 square feet per floor. The buildings are each 150 feet by 100 feet. They are approximately 57 feet from grade to top of parapet height. The area on top of the building shown on all three elevations on the Phase 1 board is just a screen wall, screening the air handling units from the adjacent areas. It provides for a similar texture to the smooth panel system that is on the upper story of the building on the fourth floor and then comes down the front.

Mr. Beshore described the architecture as a contemporary modern building with an upper level style that provides a cap for the building. The middle section is meant to divide the building and break up the box. The box works most efficiently in a healthcare planning module. The 15,000 square feet is also a planning module that works really well for a medical office building size. Tr. 142-154. He attempted to keep a pedestrian scale and residential proportion for windows, using brick and masonry that is similar to that found in the neighborhood. He tried to lower the view of the site from the residential areas by placing the buildings away from the residential areas. Tr. 179.

Mr. Beshore noted that his plans create a pedestrian way, a courtyard area in between the buildings which will be landscaped with some low level lighting. The entrances [which are on the west side of the buildings, facing the parking lot] are offset from the most common path, and they provide an interesting look to the building. They also break up the massing a little bit by being asymmetrical. There is a low retaining wall in front of the building for a garden wall that is currently proposed as stone veneer with some landscaping behind it. It is intended as a place for some seating while people are waiting to be picked up, which is a common practice in medical office buildings, and creates a nice context. That would be in front of both buildings. The walls curve around, then come back to the central area and a winding sidewalk.

Mr. Beshore further testified that both of the loading dock entrances are placed as far away from the pedestrian area as possible. They include a transformer enclosure, and a garbage area for the dumpster. Also on the side of the building are very small areas for recycling. There will not be a lot of truck deliveries to this type of building. There will be a pedestrian walkway that connects both buildings, and it will be covered with a canopy. All of the handicapped parking is in front of the building. Tr. 143-154.

Both the Technical Staff and Planning Board recommendations, conditions 4(a) through (f), talked about sprucing up the courtyard. To do this Petitioner picked low shrubs, some annuals, perennial small flowers and bushes and a couple smaller ornamental trees to be placed within that area. A concrete sidewalk that weaves its way through, and decorative pavers and benches will be installed, as shown in the Hardscape Plan (Exhibit 71(c)). Tr. 152-155.

Petitioner hopes to break ground in the spring of 2010, and there will be a 12 to 14 month construction time frame in Phase 1, so delivery would be in the summer of 2011. Tr. 158.

Mr. Beshore introduced a revised lighting plan with photometrics (Exhibit 47), a revised light fixture plan (Exhibit 48) and an enlarged site lighting detail (Exhibit 49). He noted that, because the site is in a residential district, Petitioner tries to keep the light as low as possible. All of the light is down-light and is a LEED qualified lighting. The Enlarged Site Lighting Detail labels all of the light fixtures "a, b, c, d, and e," and locates where those light fixtures are. For the landscape courtyard area, light fixture type c, a bollard type light fixture, is used. It is 42 inches in height, provides light at the walking level and in the area of a person to limit the lighting, mainly providing pedestrian scaled lighting in the courtyard. The photometric study indicates that the light fixtures do not produce more than 0.1 footcandles at the north, east and west property lines, and the plan will be revised to show the same is true at the southern property line. Tr. 159-172.

Also, on the parking lot, there's a little "a" labeled next to the parking lot. Light fixture type a has a 25-foot pole. The light itself is about a foot-and-a-half less than that because of the size of the box. There are clean cut-off fixtures with a full metal surround side, and the light only shines down. It doesn't go out the sides or the top. Tr. 172-173. Petitioner used a 25-foot light dual head fixture in this median here in this area and throughout the parking lot area to minimize the number of lights needed. Tr. 180-181.

The d fixture will be used on the retaining wall to provide some light at the seating areas. The b fixture on the left side of L-2 is the light fixture that's at the stair doors, which is required by Code, to provide lighting of the egress points of the building. Light type e is a down-light direct fixture that is actually mounted on the tube steel piece that provides a little bit of light for cars pulling up under the canopy. Tr. 174.

[Mr. Klauber raised the question of why the whole parking lot needed to be lighted throughout the night.] Mr. Beshore testified that there are insurance requirements for lighting levels required in a



parking lot from security and a safety perspective. Also, there are times that doctors are called in for someone during the night or go back to their office later at night, or they come back from the hospital late at night. Doctors and staff may be parked towards the outer end of the parking lot for patient convenience. Mr. Beshore believes that, for safety's sake, this parking lot has to be illuminated at all times when it's dark. Tr. 183-184.

Mr. Beshore described the signage for the site, which is shown in a four-page exhibit, 22(gg). Page S1-A is a perspective view of the proposed monumental sign at the driveway entrance, which is similar in nature to the existing signage that is at the entrance to Montgomery General Hospital across the street. This ground mounted sign is located midpoint of this median

Building mounted signage is shown on signage plan S1-B, which depicts POB-3, and POB-4 is dictated on S1-C. The signage on both of them are in the upper left-hand corner on POB-3, in the upper right-hand corner of POB-4, offset towards that central courtyard area. The signs are 2 feet 6 inches by 16 feet long and currently are labeled Physicians Office 3 and Physicians Office 4. They would be in similar color to the building and not a contrasting color to match the natural tones.

The other signage plan shown here is S1-D, which is a detailed monument sign showing a stone base which is similar to the planned garden wall in the front of the building, with a signage layout similar to that existing on the east campus, showing parking and then arrow or directional signs going to Physicians Office Building 3 and Physicians Office Building 4. Tr. 176-179. The monument sign will be lighted. Tr. 192. It will exceed the two square foot requirement, as will the other signs, and they will have to be approved by the Signage Committee.

6. Craig Hedberg (Tr. 194-217):

Craig Hedberg testified as an expert in transportation planning and traffic engineering. Mr. Hedberg did a local area transportation review (LATR) assessing the impact of the proposed

improvements on the community. His initial study was completed in January 2009 (Exhibit 18(a)), and a revised study, based on a reduction of planned floor area from 130,000 square feet to 120,000 square feet, was completed on April 17, 2009 (Exhibit 22(c)). Both studies rely on the same base data.

The proposed improvements will generate about 276 new trips in the a.m. peak hour and 415 in the p.m. peak hour.<sup>9</sup> These figures are based on the floor space being added that will generate new trips, not on new staff being added.

Technical Staff determines the LATR study area (*i.e.*, how many intersections out from the hospital must be evaluated), and in this case, Technical Staff required that 9 off-site intersections and the one on-site driveway intersection be studied. Mr. Hedberg followed the full procedures outlined in the Local Area Review Guidelines, and that included getting existing traffic data, evaluating existing traffic conditions and then including traffic from other approved developments to arrive at a background scenario. The final layer is to add the new traffic projected from the subject site.

He found that all the off-site intersections and the driveway which will service the new POBs will operate within the adopted congestion standard for Olney (critical lane volume – CLV – of 1450), except for one, which was Olney Sandy Spring Road (MD 108) and Old Baltimore Road during the a.m. peak hour. Under this projection, there were an additional three critical lane volume movements added because of site generated traffic impacting that intersection, bringing the CLV at that intersection up from 1486 to 1489. Exhibit 22(c), p. 17. Given those circumstances, a mitigation measure must be identified.

There is a PAMR (Policy Area Mobility Review) requirement of 10 percent mitigation measure in Olney. Because the modification will generate 415 peak hour trips in the p.m. peak hour,

---

<sup>9</sup> The new trips specified in Mr. Hedberg's report (Exhibit 22(c), p. 2, Table D).

a mitigation equivalent to 41.5 trips is required, and Technical Staff rounded up to 42 mitigation units that Petitioner needed to provide.

The Local Area Review Guidelines stipulate that a transportation improvement needs to be identified to address a negative traffic impact like this, and that can be done with roadway improvement or transit improvement.<sup>10</sup> The County wanted a transit center and Park and Planning also identified it as a need. Petitioner proposed a transit center that can accommodate four bus bays, three right along Prince Philip Drive and one on the internal drive accessing the parking lot. With that improvement, Staff determined that that would be adequate for addressing the three critical lane volume impact at the Old Baltimore Road/Maryland 108 intersection. It also satisfies the PAMR mitigation requirement of 42 mitigation units, because Staff values those mitigation units at \$11,000 each, the new transit center will cost approximately the resulting \$462,000.<sup>11</sup> Tr. 195-203.

Mr. Hedberg further testified that it is very difficult to estimate how many trips will be actually reduced at this particular site by the transit center because a transit center is a system-wide improvement. He believes it will reduce trips, but he could not project a number. Tr. 203-205.

Mr. Hedberg testified that the width and divided nature of the monument driveway will allow flexibility for emergency access should one lane be blocked. Tr. 210-211. He also did a queuing analysis of the northbound left turn lanes into the site and the southbound left turns from Prince Phillip Drive onto eastbound MD 108 during both a.m. and p.m. peak periods. Mr. Hedberg determined that there is adequate queuing distance within the 380 feet available in these turn lanes, as summarized in table F on page 4 of Exhibit 22(c). The County DOT and Technical Staff are in

---

<sup>10</sup> According to Mr. Hedberg, one element of the mitigation procedure is that a critical lane volume impact of four or less, is classified as diminimus and that allows a transportation improvement such as the transit center to be an acceptable mitigation measure.

<sup>11</sup> The State suggested that an improvement on Old Baltimore Road might be a better mitigation plan, but the County DOT, Technical Staff and Mr. Hedberg all felt, according to Mr Hedberg, that the transit center was the way to go. Tr. 205-208. Since Old Baltimore Road is a County Road, the County and not the State has the final say.

agreement. Tr. 211-214.

Mr. Hedberg also analyzed potential queues exiting the driveway, and determined that the projected queue length of 115 feet during the peak hours was well within the approximately 240 foot long stacking area within the site (counting the length of the access drive plus the distance back to the parking lot), as described on pp. 4-5 of Exhibit 22(c).<sup>12</sup> Tr. 215

In Mr. Hedberg's opinion, the transportation network is adequate to accommodate the proposed use, and the site is safe for both vehicular and pedestrian traffic. Tr. 216-217.

### **B. People's Counsel**

Martin Klauber, the People's Counsel, participated in the hearing, but did not call any witnesses. He expressed his conditional support for petition, as follows (Tr. 231):

And lest there be some question about the position of the Office of the People's Counsel[,] with the appropriate conditions about the community liaison council, long range strategic plan, the lighting, which we're going to work out, the Office of the People's Council recommends that this requested modification be granted by the Board of Appeals.

Mr. Klauber also recommended approval of the parking waiver, even without the transit facility. Tr. 224.

Mr. Klauber urged that MGH be required to file a long range plan in eight or nine months. He argued that it was "long overdue," and the citizens of the surrounding residential and greater Olney areas deserve to know what the next steps are going to be. Tr. 28-29. He noted that such a plan could be updated if there are changes.

Mr. Klauber also suggested that all-night parking-lot lighting is not an inherent characteristic of a hospital. Based on the location of the parking lot, abutting the rear lots of existing residences,

---

<sup>12</sup> In Exhibit 22(c), pp. 4-5, Mr. Hedberg notes that the total distance available for stacking on site is about 255 feet, consisting of 115 feet foot access drive and 140 additional feet back to the parking area.

there is no need to light this whole parking lot all night. Petitioner could light part of the lot near the building for physicians who stay late, and then at night, turn off the ones at least on the western end. Tr. 228-229. [Mr. Kline indicated Petitioner would review that issue.]

Finally, Mr. Klauber argued that a community liaison council be established, that it meet two times a year, minimum, more when needed, that minutes be kept of each meeting and be submitted in an annual report to the Board of Appeals dealing with how operating conditions and issues raised by the community have been dealt with by the petitioner. It should be composed of the Greater Olney Citizen Association with representatives of the homeowners associations and all of the abutting property owners on all sides of the hospital. Tr. 230-231. Mr. Kline argued that “there doesn't seem to be a problem with the way things are working. Therefore, I'm not sure why we would need to have a group get together to talk about issues that don't exist.” Tr. 231-232.

Mr. Klauber responded that community liaison councils are not formed just because there is a problem between neighbors, whether one of those neighbors is a special exception holder or happens to live in the area 24/7. Community liaison councils are formed to establish a mechanism for conversations and questions and issues. A problem does not have to exist. There have been community liaison councils established where there are problems, but there have been community liaison councils established in over 30 instances sometimes where regular ways of communicating are needed and because of the multiplicity of modifications that this hospital has gone through and is envisioning in the future, it is just a good way to communicate with its neighbors. Tr. 231-232.

#### **IV. FINDINGS AND CONCLUSIONS**

A special exception is a zoning device that authorizes certain uses provided that pre-set legislative standards are met, that the use conforms to the applicable master plan, and that it is compatible with the existing neighborhood. Each special exception petition is evaluated in a site-

specific context because a given special exception might be appropriate in some locations but not in others. The zoning statute establishes both general and specific standards for special exceptions, and the Petitioner has the burden of proof to show that the proposed use satisfies all applicable general and specific standards.

Petitions to modify the terms or conditions of a special exception are authorized by §59-G-1.3(c)(4) of the Zoning Ordinance. At the beginning of this report, we noted that because the proposed modifications would expand floor area by more than 7,500 square feet, under Zoning Ordinance §59-G-1.3(c)(4)(A), the Board may require that the underlying special exception be brought into compliance with the general landscape, streetscape, pedestrian circulation, noise, and screening requirements of 59-G-1.26, if it finds that the expansion, when considered in combination with the underlying special exception, changes the nature or character of the special exception to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected. Otherwise, the inquiry must be limited to discussion of those aspects of the special exception use that are directly related to the proposed modifications.

Thus, the threshold issue in this case, established by Zoning Code §59-G-1.3(c)(1), is whether the proposed modifications, when considered in combination with the underlying special exception, would change the nature or character of the special exception to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected.

The overall use will, of course, remain a hospital under Zoning Code §59-G-2.31. As noted Petitioner's land planner, William Landfair, "the facilities that are proposed are consistent with those normally expected for a hospital." Tr. 84. The overwhelming weight of the evidence also supports Mr. Landfair's testimony that "this modification [*i.e.*, the addition of two POBs , a parking facility and a bus transit center] . . . would not change the nature or the character of the existing special

exception use to the extent that substantial adverse effects on the surrounding neighborhood will occur.” Tr. 98. The Hearing Examiner agrees and so finds.

As discussed in the following pages, based on the testimony and evidence of record, the Hearing Examiner concludes that the Petitioner will continue to meet both the general requirements for special exceptions and the specific requirements spelled out in Zoning Ordinance §59-G-2.31 for hospitals, as long as Petitioner complies with the conditions set forth in Part V, below.

### **A. Standard for Evaluation**

The standard for evaluation prescribed in Code § 59-G-1.2.1 requires consideration of the inherent and non-inherent adverse effects on nearby properties and the general neighborhood from the proposed use at the proposed location. Inherent adverse effects are “the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations.” Code § 59-G-1.2.1. Inherent adverse effects, alone, are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are “physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site.” *Id.* Non-inherent adverse effects, alone or in conjunction with inherent effects, are a sufficient basis to deny a special exception.

Technical Staff has identified seven characteristics to consider in analyzing inherent and non-inherent effects: size, scale, scope, light, noise, traffic and environment. For the instant case, analysis of inherent and non-inherent adverse effects must establish what physical and operational characteristics are necessarily associated with hospitals. Characteristics of the proposed modifications that are consistent with the characteristics thus identified will be considered inherent adverse effects. Physical and operational characteristics of the proposed modifications that are not consistent with the characteristics thus identified, or adverse effects created by unusual site conditions, will be considered

non-inherent adverse effects. The inherent and non-inherent effects thus identified must be analyzed to determine whether these effects are acceptable or would create adverse impacts sufficient to result in denial.

Technical Staff enumerated the following inherent characteristics of hospitals (Exhibit 28, p. 17):

- A large, high-bulk physical plant, with some visual impact on its surroundings;
- hospital operations running round the clock, seven days per week;
- a large staff; a large number of patients and visitors;
- physician offices affiliated with the hospital,
- a significant amount of traffic and parking commensurate with the size of staff and patient body;
- a certain amount of operational noise from e.g. air conditioning systems;
- a large amount of bio and other waste which must be carefully disposed-of;
- a significant amount of external lighting needed for safety; and
- Emergency helipad.

In Mr. Landfair's opinion, the anticipated effects on the general neighborhood will be relatively minimal. The buildings will be located close to Prince Phillip Drive, not the adjacent townhouse development, there are substantial setbacks, berming and landscaping to mitigate the effects of the parking, adequate queuing of vehicles is accommodated within the driveway entrance, and the transit facility will help to mitigate the traffic that might be generated. Mr. Landfair noted that most hospital campuses are located in residential areas, and some hospital complexes don't have the land area MGH has. He believes there will be no non-inherent characteristics or adverse effects. Tr. 83-85.

Technical Staff identified two characteristics it felt were non-inherent, the proposed location and number (one v. two) of driveway entrances and the number of parking spaces to be provided. Exhibit 28, p. 18. Although Technical Staff recommended approval despite its reservations about these two characteristics, the Hearing Examiner finds that they are fairly characterized as "non-



inherent” based on Staff’s determination that a project of this size on a hospital site would normally require two driveway entrances and more parking. Nevertheless, in Staff’s words, “there appears to be unanimity that the current proposal [for a single driveway] satisfies minimum Code requirements . . . [, and] the applicant’s reasoning in support of the [parking] waiver appears to be sound.” Exhibit 28, p. 18. Staff also found that “[t]he proposed physician’s buildings complement the existing structures on the main campus in terms of scale, massing design and function and are well-related to the surrounding area.” Exhibit 28, p. 17.

There appear to be no other non-inherent characteristics of the site, since the MGH has the facilities one might ordinarily expect in a hospital. Therefore, the evidence supports the conclusion that there are no non-inherent characteristics of the site or proposal which warrant denial of this modification petition.

## **B. General Standards**

The general standards for a special exception are found in Section 59-G-1.21(a). The Technical Staff report and the Petitioner’s written evidence and testimony provide sufficient evidence that the general standards would be satisfied in this case, as outlined below.

### **Sec. 59-G-1.21. General conditions:**

(a) *A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:*

(1) *Is a permissible special exception in the zone.*

Conclusion: Hospitals (Zoning Code §59-G-2.31) are permitted as special exception uses in the RE-2, R-200 and R-60 Zones by virtue of Zoning Code §59-C-1.31(d), and the use already exists in this case.

(2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all*

*specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

Conclusion: As described in Part IV. C., below, the proposed modification would comply with the standards and requirements set forth for the use in Code §59-G-2.31.

- (3) *Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the commission. Any decision to grant or deny special exception must be consistent with any recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

Conclusion: The subject property lies within the area analyzed by the 2005 Olney Master Plan. The Master Plan does not recommend any changes to existing zoning (RE-2, R-200 and R-60), and the subject use is permissible by special exception in those zones. Since the instant petition concerns modification to a special exception which already exists, the existing hospital is presumed to be in conformity with the Master Plan. Thus, the question is whether the addition of the two POBs and the new transit center is also consistent with the Master Plan. That issue is addressed directly in the Master Plan, which provides (p. 17) that it supports MGH as the major employer in Olney, and specifically:

“Future expansion of Montgomery General Hospital should be supported on its main campus as well as on the vacant site across the street from the main campus [*i.e.*, on the West Campus].”

About the Master Plan, Technical Staff noted that the Community Based Planning staff “found the proposed west campus development to be consistent with the vision and recommendations of the 2005 Only Master Plan. . . . The 2005 Olney Master Plan recognizes the central role Montgomery General Hospital plays in Olney. The Plan notes that the hospital is the largest employer in the area and that the facility is expected to grow approximately 10 percent over the next 10 years.” (Exhibit 28, p. 10).

MGH has been on this site for many years, and nothing proposed in this modification petition would affect its consistency with the Master Plan. In fact, the Master Plan, on page 104, discusses opportunities for improving transit in the Olney area and recommends the MGH Campus as one of several possible sites for a transit center. The Hearing Examiner agrees with the conclusion of Technical Staff that the application is in conformance with the *Olney Master Plan*.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. The Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.*

Conclusion: On this issue, Technical Staff states that, “[w]ith the recommended conditions, the proposed modification will be in harmony with the general character of the neighborhood and not adversely affect surrounding properties or the general neighborhood.” Exhibit 28, p. 19. However, Staff added the caveat that future expansion of the hospital should not be allowed in the absence of a campus master plan.

As discussed in Part II. C. 7. of this report, the Planning Board agreed that there is a need for a campus master plan, but felt that “the Hospital’s interest in completing conversion to all-single occupancy rooms should not be dependent on the availability of a campus master plan.” Exhibit 31, p. 2. For this and other reasons spelled out in Part II.C.7, the Hearing Examiner concluded that the campus master plan should be submitted in accordance with the schedule proposed by Petitioner (*i.e.*, no later than December 31, 2010), and a condition to that effect has been recommended in Part V of this report.

In sum, this use has co-existed in harmony with the neighborhood for many years, and the modifications proposed in this petition will not change that relationship. The evidence at this stage also supports the conclusion that the public facilities and services will be adequate to serve the proposed development under the applicable Growth Policy, but the adequacy of public facilities will be determined in this case by the Planning Board at subdivision.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Conclusion: The evidence supports the conclusion that the requested modifications would not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, for the reasons stated in response to the previous general condition.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Conclusion: The subject property has been improved with this hospital since about 1969. There is no evidence that the proposed modification will cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity. As stated by Technical Staff (Exhibit 28, p. 19),

The proposed physician office buildings are distanced and separated by a substantial set back. The office buildings are also well screened and buffered in the form of landscaping, existing forest, and proposed afforestation measures. Given the prevailing characteristics of the development and uses surrounding the site, it is not anticipated that the use would cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone

The Hearing Examiner so finds.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.*

Conclusion: The Hearing Examiner concludes that the proposed modifications will not increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely. Moreover, as stated above, this special exception use is consistent with the recommendations of the applicable Master Plan, and therefore, under the terms of this provision, it does “not alter the nature of an area.” The modifications to MGH will not, by dint of number, scope, or intensity, change the predominantly residential character of the neighborhood or alter it adversely.

As discussed in Part II. C. 1 of this report, Petitioner also seeks to consolidate its properties into one 46.46 acre special exception site, leaving two other existing special

exceptions which are located on its property, a thrift shop (S-511) and the Winter Growth adult daycare and group residence facility (S-1920 and S-1921) nested on the site.

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Conclusion: The evidence supports the conclusion that the proposed modifications would not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site. The addition of two new POBs to the hospital campus will provide more employment and health service to the community, and will have no adverse effect on any of the listed individuals.

- (9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

(A) *If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision must be a condition of the special exception.*

(B) *If the special exception does not require approval of a preliminary plan of subdivision, by the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.*

Conclusion: The special exception modification will require approval of a preliminary plan of subdivision to consolidate the unrecorded parcels into a new lot. As such, the adequacy of public facilities will be determined at that time, and approval of a preliminary plan of

subdivision must be a condition of this special exception modification. From the evidence discussed at length in Part II. C. 3. of this report, it appears that both LATR and PAMR will be satisfied with mitigation provided by the proposed bus transit center. Police and fire services are located nearby. Tr. 89. Given the nature of the use, school services are not an issue for this particular application. There is adequate public water and sewer service in Prince Philip Drive. WSSC determined that service is available for 130,000 square feet of office, even though this project is for just 120,000 square feet, and provided conceptual approval on September 9th, 2008 (Exhibit 42). Tr. 128-129. Thus, the evidence at this stage supports the conclusion that the subject property would continue to be served by adequate public facilities.

(C) *With regard to public roads, the Board or the Hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic*

Conclusion: Technical Staff noted that “There is no evidence that the proposed modification will reduce the safety of vehicular or pedestrian traffic.” Exhibit 28, p. 22. According to Petitioner’s transportation planner, Craig Hedberg, the transportation network is adequate to accommodate the proposed use, and the site is safe for both vehicular and pedestrian traffic. Tr. 216-217. There is no contrary evidence, and the Hearing Examiner accepts this finding.

### **C. Specific Standards: Hospitals**

The specific standards for hospitals are found in Zoning Ordinance § 59-G-2.31. The Technical Staff report and the Petitioner’s written evidence and testimony provide sufficient evidence that the proposed modifications would be consistent with these specific standards, as outlined below.

**Sec. 59-G-2.31. Hospitals**

*A hospital or sanitarium building may be allowed, upon a finding by the board that such use will not constitute a nuisance because of traffic, noise or number of patients or persons being cared for;*

Conclusion: The hospital already exists, and has been at this site for many years without creating a nuisance. The proposed modification will add two new POBs, with a concomitant increase in outpatients, privately employed medical staff, traffic and parking. However, it will also add a bus transit center which will mitigate traffic impacts, and adequate screening for the nearby residences. As discussed previously in this report, the Hearing Examiner finds that the proposed changes will not create a nuisance from any of the enumerated factors.

*that such use will not affect adversely the present character or future development of the surrounding residential community;*

Conclusion: The best evidence that the hospital expansion will not be detrimental to development of the surrounding residential community is the Master Plan's support for such an expansion, as previously discussed. It is on a large campus, which insulates it from the residential community, and it promotes development by providing employment and needed hospital services.

*and if the lot, parcel or tract of land on which the buildings to be used by such institution are located conforms to the following minimum requirements; except, that in the C-2 and C-O zones, the minimum area and frontage requirements shall not apply:*

*(1) Minimum area. Total area, 5 acres.*

Conclusion: The West Campus, where the new POBs will be located, is itself 14.61 acres, and it is part of the overall MGH campus which consists of 46.46 acres. Both of these areas exceed the minimum area requirements.



*(2) Minimum frontage. Frontage, 200 feet.*

Conclusion: The proposal complies with this requirement. The newly developed West Campus will have 1,335 feet of frontage on Prince Phillip Drive (not counting the frontage on the Winter Growth Lot), and 378 feet of frontage along Maryland 108.

*(3) Setback. No portion of a building shall be nearer to the lot line than a distance equal to the height of that portion of the building, where the adjoining or nearest adjacent land is zoned single-family detached residential or is used solely for single-family detached residences, and in all other cases not less than 50 feet from a lot line.*

Conclusion: Mr. Landfair reviewed the specific conditions, general conditions and the general development standards required for this special exception modification, and opined that the subject petition complied with all. Tr. 87-98. He noted that the buildings will maintain minimum setbacks of 71 feet for the POB-3 building, and 50 feet for POB-4 from the nearest lot line, which is the right of way with Prince Philip. Technical Staff agrees that these setbacks satisfy the setback requirements. Exhibit 28, p. 23

*(4) Off-street parking. Off-street parking shall be located so as to achieve a maximum of coordination between the proposed development and the surrounding uses and a maximum of safety, convenience and amenity for the residents of neighboring areas. Parking shall be limited to a minimum in the front yard. Subject to prior board approval, a hospital may charge a reasonable fee for the use of off-street parking. Green area shall be located so as to maximize landscaping features, screening for the residents of neighboring areas and to achieve a general effect of openness.*

Conclusion: Issues relating to parking were discussed at length in Part II. C. 3 of this report. Based on the evidence discussed therein, the Hearing Examiner finds that the quantity and design of the parking is adequate for this site, and that appropriate landscaping and screening will be provided.

*(5) Commission recommendation. The board or the applicant shall request a recommendation from the commission with respect to a site plan, submitted by the*

*applicant, achieving and conforming to the objectives and requirements of this subsection for off-street parking and green area.*

**Conclusion:** The special exception site plan and related documents have been reviewed by Technical Staff, and modified in accordance with most of their suggestions. The revised plans were thereafter recommended for approval by both Technical Staff and the Planning Board.

*(6) Building height limit. Building height limit, 145 feet.*

**Conclusion:** The building height for the proposed modification is a maximum of 60 feet, well within the 145 feet maximum height. POBs 3 and 4 will be the same height, which according to Petitioner's architect, will be approximately 57 feet from grade to the top of the parapet. Tr. 139.

*(7) Prerequisite. A resolution by the health services planning board approving the establishment of the hospital shall be filed with the petition for a special exception.*

**Conclusion:** The hospital already exists, and has been at this site for many years. This provision is therefore inapplicable to this modification petition.<sup>13</sup>

#### **D. General Development Standards §59-G-1.23**

**(a) Development Standards.** *Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.*

**Conclusion:** In addition to the other general and specific standards set forth above, "*Special exceptions are subject [under Code § 59-G-1.23(a)] to the development standards of the applicable zone where the special exception is located [in this case, R-60, in which*

---

<sup>13</sup> The Hearing Examiner also takes official notice of the fact that the Health Services Planning Board no longer exists.

Zone the West Campus is located] *except when the standard is specified in Section G-1.23 or in Section G-2.*”

The following table was provided by Technical Staff demonstrating compliance with applicable development standards (Exhibit 28, p. 13). The Hearing Examiner corrected the Proposed Lot Area figures based on the evidence:

<b>Development Standard R-60</b>	<b>Required (current)</b>	<b>Proposed/Existing</b>
Minimum Lot Area 59-G-2.31 (1)	5 ac	East(main) Campus: 27.19 ac West Campus: 14.61 ac Other Campus : 4.66 ac ----- Total: 46.46 ac
Minimum lot Frontage 59-G-2.31 (2))	200 ft	1,335 ft
Minimum Building Setback: 59-G-2.31 (3)	a distance equal to the height of that portion of the building, where the adjacent land is zoned single-family detached residential or is used solely for single-family detached residences, and in all other cases not less than 50 feet from a lot line.	50 ft
Building coverage	25%	5%
Building Height 59-G-2.31 (6)	145 SF	60 feet

- (b) **Parking requirements.** *Special exceptions are subject to all relevant requirements of Article 59-E.*

Conclusion: The parking requirements for this proposal and the requested parking waiver were discussed at length in Part II. C. 3 of this report. Based on the evidence discussed therein, the Hearing Examiner finds that a parking waiver should be granted reducing the minimum number of parking spaces required on the West Campus from 600 to 499 parking spaces.

- c) **Minimum frontage.** *In the following special exceptions the Board may waive the requirement for a minimum frontage at the street line if the Board finds that the facilities for ingress and egress of vehicular traffic are adequate to meet the requirements of section 59-G-1.21:*

Conclusion: Not applicable.

- (d) **Forest conservation.** *If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.*

Conclusion: Environmental issues are discussed at length in Part II. C. 6 of this report. As noted therein, the Planning Board had approved the preliminary forest conservation plan (PFCP) for the subject site. Exhibit 78. Petitioner's other plans are consistent with the PFCP.

- (e) **Water quality plan.** *If a special exception, approved by the Board, is inconsistent with an approved preliminary water quality plan, the applicant, before engaging in any land disturbance activities, must submit and secure approval of a revised water quality plan that the Planning Board and department find is consistent with the approved special exception. Any revised water quality plan must be filed as part of an application for the next development authorization review to be considered by the Planning Board, unless the Planning Department and the department find that the required revisions can be evaluated as part of the final water quality plan review.*

Conclusion: This section is inapplicable because the subject site is not within a special protection area, and therefore a water quality plan is not required. Petitioner's stormwater management concept plan was approved by the Department of Permitting Services (DPS) on April 27, 2009 (Exhibit 41).

**(f) Signs.** *The display of a sign must comply with Article 59-F.*

Conclusion: As discussed in Part II. C. 5 of this report, Petitioner has proposed a new monument sign at the driveway entrance and a building identification sign on each POB, with plans therefor submitted in Exhibit 22(gg) and revised in Exhibit 66(a). There may also be additional “way-finding” signs. While the signs described above appear reasonable to the Hearing Examiner for a hospital use, they will exceed the two square-foot limit imposed by Chapter 59-F of the Zoning Ordinance for residential zones. Petitioner must therefore apply to the Department of Permitting Services for sign variances. The following condition is recommended in Part V of this report:

All signs placed on the property must meet the requirements of Zoning Ordinance Chapter 59-F, unless a variance is granted by the Department of Permitting Services or the Sign Review Board. Sign permits must be obtained, and a copy of those permits and a signage plan showing the location and description of all new signs must be filed with the Board of Appeals prior to posting any new signs.

**(g) Building compatibility in residential zones.**

*Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well related to the surrounding area in its siting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.*

Conclusion: The use in this case is institutional, and it will not look residential; however, its appearance will be appropriate. As stated by Technical Staff (Exhibit 28, p. 16), “the proposed modification complements the existing structures on the main campus in terms of scale, massing, design and function. The buildings associated with the

proposed modification would be well-related with to the surrounding area.” The Hearing Examiner agrees and so finds.

**h. Lighting in residential zones**

*All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:*

- (1) Luminaires must incorporate a glare and spill light control device to minimize glare and light trespass.*
- (2) Lighting levels along the side and rear lot lines must not exceed 0.1 foot candles.*

**Conclusion:** The revised lighting and photometric plan (Exhibit 60(a)) demonstrates Petitioner’s compliance with this requirement, as discussed in Part II. C. 5. of this report.

**59-G-1.26. Exterior appearance in residential zones.**

*A structure to be constructed, reconstructed or altered pursuant to a special exception in a residential zone must, whenever practicable, have the exterior appearance of a residential building of the type otherwise permitted and must have suitable landscaping, streetscaping, pedestrian circulation and screening consisting of planting or fencing whenever deemed necessary and to the extent required by the Board, the Hearing Examiner or the District Council. Noise mitigation measures must be provided as necessary.*

**Conclusion:** The proposed modification complements the existing structures in terms of scale, massing, design and function, as discussed above, and will have suitable landscaping, streetscaping, pedestrian circulation and screening, as discussed in Part II. C. 5 of this report.

In sum, it is clear from the record that the proposed modifications will not change the nature or character of the special exception to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected. The Hearing Examiner must therefore recommend that

the Board of Appeals grant the modification petition, with the conditions suggested in the final section of this report.

## **V. RECOMMENDATION**

Based on the foregoing analysis and a thorough review of the entire record, I recommend that Petition No. CBA-2521-J, for modification of the existing special exception held by Montgomery General Hospital, Inc., and located at 18101 Prince Phillip Drive, Olney, Maryland, to permit the addition of two, four-story Physician Office Buildings to Petitioner's West Campus, associated parking and a Transit Center to its East Campus, be GRANTED, as conditioned below. In addition, I recommend that the Board accept Petitioner's definition of its consolidated special exception site as being 46.46 acres, as set forth in Exhibit 22(m), and approve a parking waiver reducing the minimum number of parking spaces required on the West Campus from 600 to 499 parking spaces, all with the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in this report.
2. All terms and conditions of the approved special exception remain in full force and effect, except as modified in the Board's order granting this modification request.
3. All development within the Patuxent River Primary Management Area (PMA) must comply with Chapter VII –D -1(d) of the Environmental Guidelines before issuance of a sediment and erosion control permit and:
  - a. Enhanced SWM/BMPs must be applied to the entire site per the “non-conformance” criteria of the Environmental Guidelines in coordination with County DPS, and
  - b. All plans in CBA-2521-J must show the Patuxent River PMA delineation as shown on the PFCP

4. The final design of the building façade of the new POBs must substantially conform to the architectural renderings presented in Petitioner's submission to Technical Staff of April 24, 2009 (Exhibits 22(u), (v), (w), (cc), (dd) and (ee)), including materials, fenestration, and entrances.
5. The landscaping must comport with the revised Overall Planting (*i.e.*, Landscape) Plan (Exhibit 81(a)).
6. Petitioner must provide pedestrian-scaled light fixtures in the landscaped courtyard area to provide adequate illumination and to create a safe pedestrian environment. All lighting must conform to the revised lighting plan, photometric study and light fixture plan (Exhibits 60(a), (b) and (c)).
7. All standard parking spaces must be a minimum of 8.5 feet x 18 feet paved surface, in accordance with the Montgomery County Zoning Ordinance.
8. Petitioner must limit expansion under this special exception modification to two physicians' office buildings of 60,000 square feet each, for a total of 120,000 square feet, plus 449 surface parking spaces on the West Campus and the new Transit Center on the East Campus.
9. Petitioner must provide 10 motorcycle and 20 bicycle parking spaces.
10. The new physician office buildings must not exceed 60 feet in height.
11. Petitioner's hours of operation of the Hospital are twenty-four (24) hours per day, seven (7) days a week. These hours are unchanged by the instant modification. Generally, the hours of operation of the POBs would be 8:00 A.M. until 5:00 P.M., which is typical for office buildings, but there may be occasional variations due to the association of the POBs with the Hospital. There will be no overnight stays of patients in the POBs (unless associated with some type of research or treatment program); however, there will be instances when doctors,



staff or patients may arrive earlier or depart later than those hours, which represent the core period of activity for the POBs.

12. The rear (westernmost) row of pole light fixtures in the West Campus surface parking facility must have shut-off devices that extinguish the lights between 9:00 p.m. and 6:00 a.m., in order to minimize impacts on the adjacent townhouse communities.
13. On or before December 31, 2010, Petitioner must provide a long-range master plan for MGH, describing anticipated changes in physical and operations characteristics of the hospital over the long term, including but not limited to, existing and future buildings, access roads, pedestrian circulation and roadway connection options.
14. Petitioner must include a term in its lease or leases with any ground-lessee specifying, “Notwithstanding any other provision of this lease, Lessor and Lessee are bound by the terms and conditions of the special exception that governs the use of this property.”
15. The special exception will require approval of a preliminary plan of subdivision to consolidate the unrecorded parcels into a new lot. As such, the adequacy of public facilities will be determined at subdivision, and approval of a preliminary plan of subdivision is a condition of the special exception modification.
16. All signs placed on the property must meet the requirements of Zoning Ordinance Chapter 59-F, unless a variance is granted by the Department of Permitting Services or the Sign Review Board. Sign permits must be obtained, and a copy of those permits and a signage plan showing the location and description of all new signs must be filed with the Board of Appeals prior to posting any new signs.

17. Approval of the consolidation of the MGH Campus into a single special exception site, 46.46 acres in size, as set forth in Exhibit 22(m), does not constitute approval of any physical or operational changes to the site not specifically authorized by this or later resolutions of the Board.
18. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

Dated: November 25, 2009

Respectfully submitted,

---

Martin L. Grossman  
Hearing Examiner